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Report to the Legislature

December 2005

Performance Audit

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Juvenile Delinquency Intervention Program

Youth Services Division, Department of Corrections
Judicial Branch

The Youth Services Division within the Department of Corrections administers the Juvenile Delinquency Intervention Program, which funds youth court placements and services for juvenile offenders. The Judicial Branch administers youth courts. This performance audit examined program administration, evaluation, and decision-making activities. It includes recommendations for improving administrative rules, distribution of program funds, and program monitoring and oversight. This report also presents information and a recommendation related to updating the Youth Court Act.

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Legislative Audit Division

Performance Audit

Juvenile Delinquency Intervention Program

**Youth Services Division, Department of Corrections
Judicial Branch**

Members of the audit staff involved in this audit were Kent Wilcox and Mike Wingard.

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December 2005

The Legislative Audit Committee
of the Montana State Legislature:

This report provides information to the Legislature regarding the Juvenile Delinquency Intervention Program (program). The Legislature appropriates juvenile placement funds to the Department of Corrections, which then distributes these funds through the program to Montana's youth courts. The Department of Corrections also appoints a Cost Containment Review Panel that is responsible for determining the formula for distributing program funds to youth courts. The Cost Containment Review Panel also has some oversight responsibilities for how youth courts use program funds. Youth courts use these funds to pay for youth placements and services in response to delinquent behaviors or activities. The Office of the Court Administrator under the direction of the Supreme Court has general administrative responsibilities for judicial districts and youth courts.


This report includes recommendations for enhancing the Department of Corrections program evaluation activities and Cost Containment Review Panel decision-making activities. The report also includes recommendations for updating the Youth Court Act and program statutes because of changes to the structure of Montana's Judiciary.

We wish to express our appreciation to Department of Corrections and Judicial Branch personnel for their cooperation and assistance during the audit. Additionally, we want to thank members of the Cost Containment Review Panel for their cooperation and assistance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Scott A. Seacat".

Scott A. Seacat
Legislative Auditor



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Pedro Hernandez, Juvenile Justice Council Member

Montana Judicial Branch

Karla M. Gray, Chief Justice
Jim Oppedahl, Administrator, Office of the Court Administrator

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Introduction

The 1997 Legislature enacted the Juvenile Delinquency Intervention Program (JDIP or program) as a pilot program and the 2001 Legislature fully enacted JDIP to fund youth court placements and services in the state's judicial districts. The purpose of JDIP is to provide a method of funding placements and services that increases government's ability to respond to juvenile delinquency through community-based early intervention and placement alternatives and enhance the ability to control placement costs. Additionally, the Legislature stated JDIP is to encourage the use of local, regional, and state resources for placement of troubled youth.

Audit Objectives

State law indicated JDIP is intended to be a performance-based program, requiring evaluation of activities and outcomes. Audit objectives focused on examining program monitoring and processes for distributing JDIP funds to youth courts.

Montana's Youth Court System

Each of Montana's twenty-two judicial districts has a youth court. Law enforcement, schools, parents, and others may refer to youth court juveniles alleged to have committed status or delinquent offenses. Status offenses are acts that would not be considered a crime if committed by an adult, such as curfew violations or runaway youth. Delinquent offenses include misdemeanor and felony offenses. Youth court proceedings are civil, not criminal, actions.

If a youth court determines an offense occurred, the court may require a juvenile offender to complete a probationary period, which commonly ranges from several months to several years, but typically ends when a youth turns 18 years of age. A probation term may require youth to perform community service, make restitution, and attend counseling or treatment programs. The court may also place a youth in an out-of-home placement for treatment and services, or commit a youth to the Department of Corrections (department) for placement in a secure youth correctional facility.

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Structural Changes to the Judiciary

Historically, district courts and their respective youth courts were independent local government entities funded at the county level with some state subsidies. The 2001 Legislature created a state-funded district court system and placed district courts under the general administrative umbrella of the Judicial Branch. District courts retained their traditional judicial and youth court program responsibilities, and the Office of the Court Administrator, under direction from the Supreme Court, assumed responsibility for some general administrative functions, such as accounting services.

The Juvenile Delinquency Intervention Program

The department is responsible for administering the program and distributing funds to youth courts, which includes statutory responsibilities for monitoring expenditures and evaluating outcomes. The department also appoints and provides administrative support to a nine-member Cost Containment Review Panel (panel). The panel has some oversight responsibilities. Each judicial district appoints a chief juvenile probation officer who has overall responsibilities for administering youth court program activities.

JDIP Encourages Youth Courts to Control Expenditures

Each youth court receives an annual allocation based on a panel formula that uses factors related to juvenile delinquency. In FY2004, \$4,830,343 was allocated to youth courts. Youth courts are expected to control expenditures to avoid exceeding their allocation. State law also requires the department place at least \$1 million annually into the cost containment fund (contingency fund), money reserved to pay for unexpected or unusual youth court expenditures, and managed by the panel. Youth courts that expect to exceed their allocation must request supplemental funds from the panel.

To further encourage youth courts to control expenditures, youth courts may carry forward unexpended allocation funds at fiscal year end to implement and fund intervention and prevention programs. Youth courts must receive panel approval for expending prevention funds.

Program Implementation is Proceeding

JDIP is a relatively new program, and the department, panel, and Judicial Branch have focused efforts on implementing basic program operations and activities. Audit work indicated:

- ▶ Good coordination among panel members appears to effectively promote legislative intent for JDIP.
- ▶ The department provides youth courts with monthly reports to help monitor expenditures.
- ▶ Youth courts have limited management information for program evaluation, but the Judicial Branch is implementing an automated management information system designed to increase capabilities for tracking and reporting youth court activities and expenditures.
- ▶ Various factors affect youth court placements and expenditures, and some factors can increase youth court expenditures and reduce funding for community-based services.
- ▶ The Cost Containment Review Panel promotes efforts to control expenditures by making recommendations for improving youth court operations.

Improving Administration and Oversight

Audit work identified areas for improving program administration and oversight, which are discussed in the following sections.

Improving Program Administrative Rules

Administrative rules for JDIP address overall program operations, but do not address some activities required by state law or legislative intent. While neither state law nor administrative rules address allowable JDIP expenditures, the department and panel restricted use of program funds, resulting in uncertainty and disagreements over allowable expenditures. Additionally, administrative rules do not specify performance measures as the Legislature intended. We recommend the Department of Corrections, in consultation with the Cost Containment Review Panel, modify its administrative rules to clarify allowable

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expenditures and establish program standards in accordance with state law and legislative intent.

Correctly Calculating JDIP Allocations

The panel determines the formula for allocating JDIP funds, which the department uses to calculate each youth court's annual allocation. However, the department incorrectly applied math principles in the calculation formula, resulting in some youth courts receiving substantially more or less funding than if math principles were applied correctly. We recommend the Department of Corrections implement procedures to ensure calculations are mathematically correct.

Improving the Allocation Formula

Some youth courts spend substantially more or less than their annual allocation. Analysis of factors in the panel's allocation formula and other Montana juvenile justice factors indicated two of the panel's three factors, which generally related to juvenile delinquency, are not the best predictors of youth court expenditures. Analysis indicated other factors, such as specific offense categories, are better predictors of expenditures. We recommend the Cost Containment Review Panel seek technical assistance to analyze juvenile justice data to identify better predictors of youth court resource needs.

Improving Accountability for Program Expenditures

We identified several areas for improving accountability of JDIP expenditures.

Department Evaluations Should Increase Emphasis on Performance Measures

The department conducts minimal evaluations of youth court activities funded by JDIP, and has not collected baseline data for comparative analysis of program expenditures and outcomes. Expanded evaluations and increased analysis of program expenditures would also improve the panel's decision-making capabilities. We recommend the Department of Corrections, in consultation with the Cost Containment Review Panel, implement performance measures for youth court programs funded by JDIP and initiate collection of baseline data for comparison and monitoring of JDIP activities.

Improving Panel Decision-Making and Oversight of JDIP Funds

The Cost Containment Review Panel is responsible for managing the contingency fund and approving expenditures of prevention funds, but has not defined formal decision-making criteria. Formal decision-making criteria are essential for ensuring consistent panel decisions addressing legislative intent and informing youth courts of panel expectations for managing JDIP funds. We recommend the Cost Containment Review Panel, in consultation with the department, implement formal decision-making criteria for evaluating and approving youth court requests for contingency fund money and proposals for using prevention funds.

The Youth Court Act Should Be Updated

With state-assumption of district courts in 2001, the Judicial Branch assumed responsibilities for general administration and funding most youth court activities, except placements and services. However, Montana's Youth Court Act, including statutory language for JDIP administration, was not modified to reflect state-assumption or funding for youth court placements and services.

We recommend the Department of Corrections and the Judicial Branch cooperatively seek legislation to update the Youth Court Act, including the Juvenile Delinquency Intervention Program, to reflect the current structure of and funding for Montana's youth courts.

Future of the Juvenile Delinquency Intervention Program

Updating the Youth Court Act should also include examining the organizational location of, or need for, the Juvenile Delinquency Intervention Program. Since youth courts are now under the administrative umbrella of the Judicial Branch, JDIP may no longer be needed in its current structure to fund youth court placements and services. We present four alternatives, with no preference order, for legislative consideration.

- ▶ Alternative A. Maintain JDIP in its current structure and location.
- ▶ Alternative B. Transfer JDIP administration and appropriations to the Judicial Branch.
- ▶ Alternative C. Create a separate administrative entity to administer the program.

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- ▶ Alternative D. Eliminate the program and transfer youth court placement funding to the Judicial Branch.

Conclusion

Since JDIP was enacted in its current form, the department and panel have focused efforts on implementing basic program operations. These entities now need to focus efforts on clarifying allowable expenditures, developing performance measures, and establishing formal decision-making criteria for JDIP funds management and oversight. Additionally, the creation of a state-funded district court system has raised questions about the need for JDIP in its present form to fund youth court placements and services.

Whether the Legislature continues to fund youth court placements and services using the existing JDIP structure or an alternative strategy, our recommendations concerning day-to-day program administration need to be incorporated into funding decisions and overall management. Implementing our recommendations will assure the Legislature is provided better information for making future decisions about funding youth placements and services.

Chapter I - Introduction and Background

Introduction

The Legislative Audit Committee requested a performance audit of the Juvenile Delinquency Intervention Program (JDIP or program), which is administered by the Youth Services Division within the Department of Corrections (department). The Legislature appropriates funds to the department for juvenile probation and parole placements and services. The department allocates most of these funds to youth courts through JDIP. The purpose of the program is to:

- 1) Provide a method of funding juvenile placements and services;
- 2) Increase the ability of government to respond to juvenile delinquency through early intervention and expanded community alternatives; and
- 3) Enhance the ability of government to control costs.

The Office of the Court Administrator (Court Administrator), under the direction of the Supreme Court, has general administration responsibilities for the Judicial Branch, including youth courts.

Audit Scope and Objectives

We based our audit objectives on statutory program requirements and legislative program intent. Primary audit objectives were to:

- ▶ Determine whether JDIP was implemented in accordance with legislative intent.
- ▶ Determine whether procedures are in place to monitor and evaluate program activities.
- ▶ Evaluate the process for allocating and distributing program funds to youth courts.
- ▶ Provide the Legislature with information about how youth courts use program funds.

Audit scope did not include examining department use of placement funds for juvenile parole placements and services.

To meet these objectives, our audit methodology included:

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- ▶ Interviewing personnel involved in JDIP and youth court activities.
- ▶ Analyzing program documentation, including department and youth court records.
- ▶ Reviewing program statutes and rules.

More specific information about audit scope and methodologies is presented in Appendix A.

Overview of Montana's Juvenile Justice System

Montana's juvenile justice system is comprised of a number of state, local, and private agencies and organizations. Their responsibilities and roles vary, ranging from prosecuting to providing funding and services for youth offenders. The following sections provide an overview of Montana's juvenile justice system and information about JDIP.

Judicial Districts and Youth Courts

Montana has twenty-two judicial districts, with youth courts in each judicial district. Each judicial district conducts youth court proceedings in each county within their respective district. A district court judge is also the youth court judge. Judicial districts with two or more judges may assign or rotate one or more judges as youth court judges.

Judiciary's Structure Changed in 2001

Historically, judicial districts, and accompanying youth courts, were local government entities funded by county governments and some state subsidies. The 2001 Legislature created a fully state-funded district court system and placed district courts under the general administrative umbrella of the Supreme Court. The Office of the Court Administrator provides fiscal and administrative services to the Judicial Branch. District court judges retained traditional judicial powers, including appointing and directing employees and managing youth courts.

Juvenile Probation Officers

Each judicial district appoints a chief juvenile probation officer who has overall responsibilities for administering youth court program activities and may supervise youth on probation. Youth courts also employ deputy juvenile probation officers for supervising juvenile offenders and administrative personnel. All youth court personnel are state employees.

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Youth Court Referrals

Law enforcement officials, schools, parents, county attorneys, or others may refer youth who violate Montana's laws to youth court. Section 41-5-103, MCA, defines a youth as any individual less than 18 years of age. Youth courts are civil, not criminal, courts. Juvenile offenses fall into two primary categories:

- ▶ Status offenses. Violations of Montana law that if committed by an adult would not be a crime. Examples of status offenses include runaway, curfew violations, and ungovernable youth.
- ▶ Delinquent offenses. Misdemeanor and felony offenses that would be considered criminal acts if committed by an adult.

Youth Court Proceedings

Youth referred to youth court may face either informal or formal proceedings, depending on factors such as the nature and severity of the offense(s) and a youth's prior criminal history.

- ▶ Informal proceedings. Youth courts may conduct informal proceedings before a hearing officer or juvenile probation officer. Informal proceedings are usually reserved for status offenses and less serious misdemeanor offenses. Youth must admit to the offense and sign an agreement with the youth court, which includes a probationary period and other requirements, such as making restitution, performing community service, or attending counseling. While juvenile probation officers may discuss proposed informal probation agreements with a judge or county attorney, the case is not presented for formal court action.
- ▶ Formal proceedings. County attorneys bring formal proceedings before the youth court, and legal counsel may represent a youth. Formal proceedings are typically initiated when youth commit more serious misdemeanor or felony offenses, or have previous referrals to youth court. If a youth court judge adjudicates a youth to be in need of supervision or a delinquent, the judge may require a youth to complete a probationary term with specific requirements, which may include completion of a treatment program or an out-of-home placement.

Juvenile probationary terms vary depending on the nature and severity of an offense, and commonly range from several months to several years, but typically expire when a youth turns 18 years of age. However, a youth court judge may keep a youth on probation until 21 years of age. Youth courts are responsible for paying for

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Youth Courts May Commit Youth to the Department of Corrections

treatment and services, evaluations, and out-of-home placements for youth placed on probation.

If a youth court determines community-based supervision, services, or placements are not appropriate for a youth, the court may commit a youth to the Department of Corrections for placement in a secure care facility. Statutes place specific restrictions on placements in a youth correctional facility. For example, statutes do not permit placement in a state youth correctional facility:

- ▶ For a period longer than that of an adult convicted of the same offense.
- ▶ For an act that would not be an offense if committed by an adult.
- ▶ For misdemeanor offenses unless a youth has committed four or more misdemeanor offenses within the previous twelve months.
- ▶ If a youth has mental health disorders that meet specific criteria.

The Department of Corrections has jurisdiction of youth committed to the department until the youth terminates the sentence or turns 18 years of age and is responsible for any associated treatment, services, or placement costs.

Department of Corrections Juvenile Offender Programs

The department's Youth Services Division manages a number of juvenile offender programs and activities, including:

- ▶ Juvenile Secure Care Facilities. The Pine Hills Youth Correctional Facility for males is located in Miles City and the Riverside Youth Correctional Facility for females is located in Boulder. Both facilities provide a range of treatment programs and have onsite schools offering juvenile offenders opportunities to obtain a high school diploma or a GED. Pine Hills also offers residential sexual offender and chemical dependency treatment programs.
- ▶ Juvenile Parole. Juveniles placed in a secure care facility may be eligible for parole. Division juvenile parole officers supervise juvenile parolees.
- ▶ Juvenile Transition Programs. The division provides transition centers and mentoring programs to help youth offenders reintegrate into communities.

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- ▶ Other Programs and Activities. The division licenses juvenile detention facilities, transports juvenile offenders, and administers the juvenile offender interstate compact agreement.

Other State and Local Agencies and Organizations

In addition to JDIP, youth courts and the juvenile justice system rely extensively upon other state and local agencies and organizations to provide funding, services, or serve in advisory capacities, including:

- ▶ Youth Justice Council. The Youth Justice Council within the Montana Board of Crime Control is responsible for administering federal juvenile justice grants, and serves to improve the juvenile justice system through planning, research, and assisting in the coordination of statewide programs.
- ▶ Law Enforcement Agencies. Local law enforcement agencies are a primary source of youth referrals.
- ▶ County Attorneys. County attorneys are responsible for pursuing formal legal action.
- ▶ Local Governments. County, city, and other local government entities may provide funding or services for youth courts.
- ▶ Schools. Schools commonly refer youth and may provide resources or contracted services to youth courts.
- ▶ Mental Health Services. The Department of Public Health and Human Services and other government or private mental health agencies provide funding or services to help youth courts address mental health issues for youth referred to youth court. Kids Management Authorities help youth courts provide a continuum of care and coordinate wrap-around services for seriously emotionally disturbed juvenile offenders and their families.

The Juvenile Delinquency Intervention Program

The 1997 Legislature implemented JDIP as a pilot project for funding placements and services for youth offenders under youth court jurisdiction. The 2001 Legislature subsequently amended the statutes to fully enact the program. Before fiscal year 2001, the department was responsible for paying for youth court placements and services. To address escalating youth court placement costs and limited local resources for implementing placement alternatives and early intervention programs, the Legislature created this program. The program was designed to encourage youth court efforts to control costs by:

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- ▶ Providing each youth court an annual allocation, or budget, and responsibility for managing their respective funds. Youth courts may expend program funds without obtaining department approval for placements and services that meet program requirements or standards.
- ▶ Allowing each court to retain unexpended allocation funds (prevention funds) for the purpose of implementing placement alternatives or early intervention programs designed to reduce juvenile delinquency.

If youth courts have additional costs due to unusual or unexpected demands for placements or services, they may request supplemental funding from the program's contingency fund.

One youth court decided to not participate in JDIP. In accordance with state law, this youth court must obtain department approval before spending allocation funds on placements or services, and unexpended allocation funds revert to the department.

The following sections provide information about the program's components, its entities and their respective involvement.

The Department Administers the Program

Section 41-5-2003, MCA, specifies department duties for administering the program, which include:

- ▶ Monitoring JDIP expenditures to ensure judicial districts do not exceed their allocation.
- ▶ Adopting rules for how program funds not used for placements may be used for placement and early intervention alternatives.
- ▶ Providing technical assistance to judicial districts for evaluating placement alternatives and effective early intervention alternatives.
- ▶ Reviewing and monitoring youth courts' placement alternatives.
- ▶ Reporting program activities and outcomes to the legislature.

Statutes also require the department to adopt program rules, which include evaluating youth courts to ensure they are "using early intervention strategies and community alternatives and effectively controlling costs for youth placements." Furthermore, section 41-5-

Chapter I - Introduction and Background

2006, MCA, states the Legislature's intent that rules encourage the "use of local, regional, and state resources for the placement of troubled youth."

The department provides a biennial report to the legislature about program activities that includes information such as:

- ▶ Youth court expenditures by judicial district.
- ▶ Types of placement alternatives and early intervention programs implemented with program funds.
- ▶ Results of department reviews of youth courts' program activities, including compliance with statutory requirements.
- ▶ Basic outcome information by judicial district.

The Legislature appropriates juvenile placement funds to the department, which are used for funding both department and youth court out-of-home placements and services. Historically, the department retained approximately 15 percent of appropriated placement funds to pay for juvenile parole placements. In February 2005, the department and Judicial Branch agreed the department would retain only 10 percent of placement funds for FY 2006. Section 41-5-132, MCA, requires the department allocate at least \$1 million of program funds to the contingency fund, with remaining funds distributed to youth courts. Youth courts may request supplemental money from the contingency fund if they expect to exceed their allocation due to unexpected or unusual placement or service costs. The following table presents program funding for fiscal years 2002-2006.

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Table 1
Juvenile Delinquency Intervention Program Funding
FY 2002 through FY 2006

	FY2002	FY2003	FY2004	FY2005	FY2006
Total Juvenile Placement Funds	\$7,140,545	\$7,335,479	\$7,085,682	\$6,682,757	\$6,042,344
Juvenile Parole Placement Funds	\$921,082	\$1,100,322	\$852,414	\$852,414	\$504,234
Total JDIP Funds	\$6,219,463	\$6,235,157	\$5,830,343	\$5,830,343	\$5,538,110
Contingency Fund	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000
Balance Distributed to Youth Courts	\$5,219,463	\$5,235,157	\$4,830,343	\$4,830,343	\$4,538,110

Source: Compiled by the Legislative Audit Division from Department of Corrections Records.

Program funding has decreased in part because the department used unexpended program funds to meet legislatively imposed budget reductions and budgetary shortfalls in adult corrections. These transfers were in accordance with state law, but also resulted in reduced base-level juvenile placement funding in subsequent fiscal years.

Other Funding and Services Sources

While JDIP is the primary funding source for juvenile placements, youth courts also use other funding sources to help offset or pay for placements and services, including:

- ▶ Medicaid. Medicaid funding may pay for a portion of a youth's placement or services if a youth's family meets specific income eligibility requirements.
- ▶ Federal grants. The federal government manages various grant programs for improving juvenile justice. The Montana Board of Crime Control is a pass-through agency for many federal grants. Interviews indicated local governments, in cooperation with local youth courts, commonly apply for juvenile justice grants.
- ▶ Federal foster care and adoption assistance (IV-E program). The IV-E program provides funding assistance for youth that meet

Chapter I - Introduction and Background

eligibility requirements. IV-E funds may be used for boarding and care costs, but may not be used for social services, counseling for a child or parent, or other types of treatment to remedy personal or behavioral problems. Interviews indicated few youth adjudicated in youth courts are eligible for IV-E assistance.

- ▶ Other funding sources. Youth courts may be able to access funding and resources from other local, state, and federal entities. For example, youth courts may be able to access mental health resources from local governments or other state agencies. Also, some local, regional, and state organizations provide funding or resources for community-based programs.

Parental Contributions and Social Security Reimbursements

When a court determines a youth needs to be placed in an out-of-home placement, section 41-5-1525, MCA, requires a court examine a youth's parents' financial ability to pay for a portion or all of the costs. Additionally, any social security benefits awarded to a youth are used to pay for out-of-home placement costs. These revenues are deposited to a state special revenue account and used to pay for placements and services. Table 2 provides information on parental contributions and social security reimbursements.

Table 2
Parental Contributions and Social Security Reimbursements for Youth Court
Placement Costs
Fiscal Years 2002-2005

	FY2002	FY2003	FY2004	FY2005
Social Security	\$66,443	\$104,628	\$150,832	\$156,540
Parental Contributions	\$95,801	\$115,589	\$176,895	\$185,471
Total	\$162,244	\$220,217	\$327,727	\$342,011

Source: Department of Corrections (unaudited).

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Parental contributions have increased because of expanded efforts to identify parents' ability to pay for youth placements. Youth court file documentation indicated youth court judgments include requirements that parents pay for all or a portion of placement and service costs.

Youth Courts Use Program Funding for Various Types of Placements and Services

Table 3 provides information on the number of youth in placements or receiving services paid with annual allocation funds. The information does not include youth receiving services paid with prevention funds.

Table 3
Youth In Placements or Receiving Services
Paid With Program Funding Statewide
FY 2002 through FY 2005

Fiscal Year	Number of Youth
2002	1,008
2003	886
2004	779
2005	729
Total	3,402

Source: Department of Corrections (unaudited).

Program funding is used for several categories of placements and services. The following sections provide general category descriptions.

Out-of-home Placements

Youth courts have several out-of-home placement options when the court determines a youth needs to be removed from home. Statute mandates a youth must be placed in the least restrictive placement necessary to protect a youth or the community.

- ▶ Shelter homes. Shelter homes are licensed temporary placements that provide care until a youth court determines where to place a youth. Commonly, youth placed in shelter homes were picked up as runaways, removed from a home for behavioral or safety reasons, or are waiting to be transferred to a treatment facility. Shelter homes may provide some professional

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services such as counseling for emergent needs, but are not considered treatment or therapeutic placements.

- ▶ Youth group homes. Youth group homes provide care for up to twelve youth. The Department of Public Health and Human Services licenses group homes according to the type or level of care, treatment, and therapeutic services offered, such as programming for youth with serious emotional disturbance issues or conduct problems. Group homes are the most commonly used out-of-home placement.
- ▶ Residential treatment facilities. These facilities typically provide intensive in-patient treatment or therapy under the direction of medical and mental health professionals.
- ▶ Other residential or alternative programmatic placements. Youth courts may use a variety of other placements ranging from independent living transition programs and foster homes to residential or alternative programmatic placements that offer specialized therapeutic, behavioral, or cognitive treatment strategies. A commonly used alternative placement is a military therapeutic program, or boot camp-type program.

Placement Alternatives

One of the statutory purposes of the program is to encourage use of community-based placement alternatives. Placement alternatives are commonly described as programs or services that allow a youth who might otherwise be placed in an out-of-home placement to remain in the community under special conditions. Some placement alternatives are widely used throughout the state and others may be specific to one or more judicial districts. Examples we identified include:

- ▶ Intensive supervision and electronic monitoring. Some judicial districts use these programs as an alternative to youth detention pending court hearings or adjudication.
- ▶ Youth sexual offender monitoring program. One judicial district contracts with a local sexual offender treatment program for day monitoring services. This program provides increased specialized supervision of youth sexual offenders.
- ▶ Community service programs. These programs arrange projects or activities and supervise youth required to perform community service. Community service typically includes cleaning or rehabilitating public areas or providing other services to benefit a community.

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Early Intervention Programs

- ▶ Behavioral and cognitive modification programs. Common examples of these types of services include anger management and chemical dependency classes.

Early intervention programs provide programming and services to youth considered at risk for delinquent behavior or youth who have been referred to youth court for minor offenses. Early intervention programs are commonly developed in cooperation with local service organizations and school districts. Early intervention programs may target youth as young as five or six years of age. Examples include:

- ▶ After school programs. After school programs target at-risk youth and provide a structured environment to promote positive behaviors. Programs commonly offer recreational activities, arts and crafts classes, and educational assistance and tutoring.
- ▶ Cooperative educational programs. Several youth courts have worked with school districts to implement classroom programs focusing on identifying and addressing anti-social behaviors of youth in early elementary grades. These programs include classroom components directed towards improving child behaviors and may include a parenting component for parents.
- ▶ Employment programs. One judicial district cooperates with a local non-profit agency to employ at-risk youth and youth on probation.

The Cost Containment Review Panel also has Program Decision-Making Responsibilities

Section 41-5-131, MCA, requires the department to appoint a nine-member Cost Containment Review Panel (panel). Statute requires the panel consist of:

- ▶ Two department representatives.
- ▶ A Department of Public Health and Human Services representative.
- ▶ A representative from the mental health field.
- ▶ A youth court judge.
- ▶ Two chief juvenile probation officers.
- ▶ A county commissioner.
- ▶ A representative of the youth justice council.

The panel has no administrative staff and relies on department personnel for administrative and technical assistance.

State law and administrative rules give the panel specific decision-making responsibilities for determining how program funds will be distributed to youth courts, management of the cost containment fund, and approving youth courts' plans for using youth intervention and prevention account funds (prevention funds). Since all panel decisions require a majority vote, no agency or entity has voting control of panel decisions.

The panel typically meets monthly or as needed to conduct program business. Panel members commonly participate telephonically to minimize travel costs. Similarly, youth court personnel presenting requests for contingency fund money or plans for using prevention funds commonly participate in panel meetings telephonically.

Panel Sets Allocation Formula

Section 41-5-131, MCA, requires the panel determine how JDIP funds will be distributed to youth courts, and section 20.9.129, ARM, requires the panel determine an allocation formula for distributing program funds by April 30 for each upcoming fiscal year. Administrative rules state the panel may include factors such as:

- ▶ Number of at-risk youth.
- ▶ Crime statistics.
- ▶ Poverty indexes.
- ▶ Youth court placement histories.

Since 2003, the panel's allocation formula has been based on each youth court's percentage of statewide youth population, poverty level, and juvenile offenses. The panel modified the formula slightly for the 2005 fiscal year, using Office of Public Instruction free or reduced price lunch data for poverty data instead of 2000 Census poverty data. Table 4 provides data on the allocation of JDIP funds to judicial districts for fiscal years 2002 through 2005.

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Table 4
Program Funding Allocations to Judicial Districts
FY 2002 through FY 2005

Judicial District	FY2002	FY2003	FY2004 *	FY2005
1 Helena	\$328,361	\$365,739	\$361,415	\$333,573
2 Butte	\$163,992	\$200,156	\$206,308	\$190,433
3 Deer Lodge	\$84,069	\$101,972	\$102,703	\$94,806
4 Missoula	\$585,847	\$591,314	\$597,427	\$551,413
5 Dillon	\$149,666	\$117,668	\$120,057	\$110,830
6 Livingston	\$107,820	\$85,377	\$83,855	\$77,407
7 Glendive	\$134,963	\$125,898	\$124,640	\$115,050
8 Great Falls	\$424,871	\$726,161	\$707,036	\$652,600
9 Shelby	\$203,199	\$196,056	\$195,394	\$180,365
10 Lewistown	\$85,200	\$84,598	\$84,030	\$77,543
11 Kalispell	\$438,442	\$417,003	\$426,294	\$393,456
12 Havre	\$151,551	\$180,455	\$183,754	\$169,611
13 Billings	\$712,516	\$590,735	\$585,997	\$540,869
14 Roundup	\$53,910	\$51,034	\$51,782	\$47,793
15 Wolf Point	\$112,344	\$105,740	\$105,690	\$97,550
16 Miles City	\$193,020	\$165,639	\$164,227	\$151,575
17 Glasgow	\$116,491	\$129,660	\$132,474	\$122,280
18 Bozeman	\$420,347	\$293,799	\$294,539	\$271,854
19 Libby	\$104,050	\$126,511	\$128,203	\$118,331
20 Polson	\$232,227	\$249,809	\$241,050	\$222,475
21 Hamilton	\$220,164	\$174,057	\$179,003	\$165,223
22 Hardin	\$196,413	\$155,775	\$157,434	\$145,306
Totals	\$5,219,463	\$5,235,156	\$5,233,312	\$4,830,343

* FY 2004 allocations include \$402,969 of FY 2003 unexpended funds.

Source: Compiled by the Legislative Audit Division from Department of Corrections records.

Panel Manages Cost Containment Fund

The panel has statutory responsibility for managing the cost containment fund, which is commonly called the contingency fund. The panel also may recommend the department allocate more program funds to the contingency fund. The general purpose of the contingency fund is to be a reserve for youth courts that spend more than their allocation. Since youth courts may not operate with a deficit, any youth court that projects to over-expend its allocation

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must submit a request for supplemental money from the contingency fund. Panel members may consider various factors when considering whether to approve requests for contingency fund money including placement practices, youth court referrals, and youth court documentation justifying the need for supplemental funding. The panel may also require youth courts present a plan for mitigating projected over-expenditures.

The panel evaluates and determines whether to approve requests for contingency fund money. The panel has granted less than the amount requested, but has not denied a request. The panel may also restrict youth court use of contingency fund money.

Since the panel assumed responsibility for the contingency fund in FY 2002, it has had funds remaining at the end of each fiscal year. Table 5 provides information on contingency fund money distributed to youth courts for fiscal years 2002 through 2005.

Table 5

Contingency Funds Distributed to Youth Courts
Fiscal Years 2002 through 2005

FY2002	FY2003	FY2004	FY2005
\$415,022	\$609,235	\$650,193	\$639,025

Source: Compiled by the Legislative Audit Division from Department of Corrections records.

The panel received up to eight requests for contingency fund money each year. Youth courts requested approximately \$1,500 to more than \$400,000, including several requests for more than \$100,000 each year.

If the panel does not use all contingency fund money at the end of a fiscal year, administrative rules state the panel may use remaining funds to further the purpose and intent of the program. For example,

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in FY 2004 the panel approved spending \$174,000 to help the Judicial Branch purchase a risk assessment system for evaluating at-risk youth. The department has also used unexpended contingency fund money to address legislatively mandated budget reductions and budgetary shortfalls in adult corrections.

Panel Approves Use of Intervention and Prevention Funds

At the end of a fiscal year, unexpended allocation funds are transferred to a youth court's intervention and prevention fund account administered by the Judicial Branch. The 2005 Legislature gave the Judicial Branch a statutory appropriation to spend prevention funds in accordance with state law and department administrative rules for JDIP. Youth courts may use prevention funds for developing and implementing placement alternatives and prevention programs. Before using the funds, youth courts must submit, for panel approval, a plan for using prevention funds. Most state agencies may not retain unexpended funds at the end of a fiscal year. However, the Legislature implemented this strategy as an incentive to youth courts for controlling placement costs and increasing funding options for local intervention efforts.

Each fiscal year, 14 youth courts have carried forward annual allocation funds in amounts ranging from approximately \$300 to \$291,000. Youth courts have used these funds to provide services such as tutoring or structured after school programs. Table 6 provides summary information about unexpended annual allocation funds for fiscal years 2002 through 2005.

Table 6
Unexpended Annual Allocation Funds (Prevention Funds)
Fiscal Years 2002 through 2005

FY2002	FY2003	FY2004	FY2005
\$792,527	\$673,247	\$924,808	\$954,963

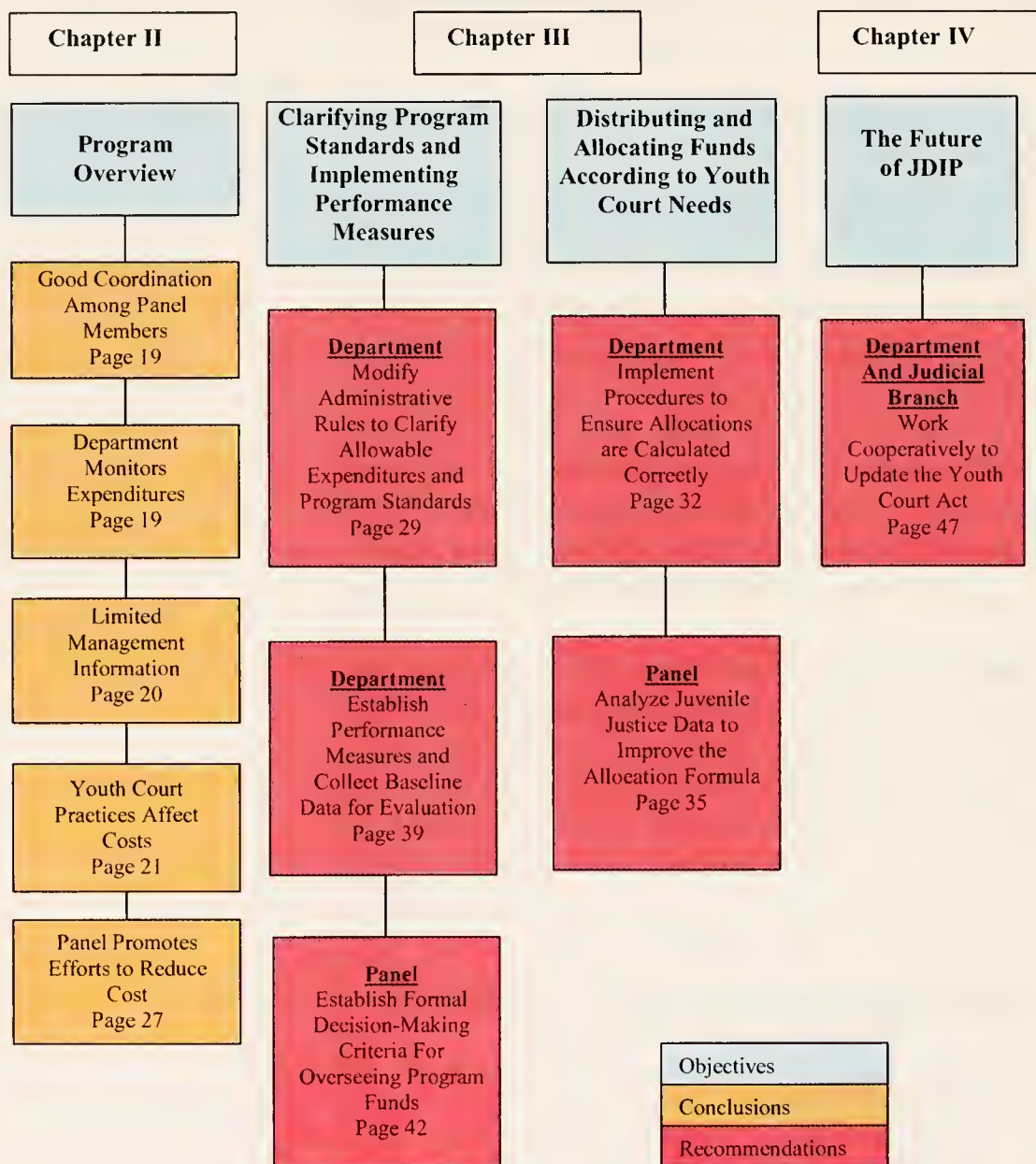
Source: Department of Corrections records.

Report Organization

The remainder of this report provides more detailed information about, and recommendations for, improving the Juvenile Delinquency Intervention Program. Figure 1 is an outline of audit conclusions and recommendations presented in the following chapters.

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Figure 1
Report Organization Overview



Source: Compiled by the Legislative Audit Division.

Chapter II - Overview of Program Administration

Introduction

This chapter presents information about Department of Corrections (department) and Cost Containment Review Panel (panel) administration of the Juvenile Delinquency Intervention Program (JDIP or program) and concludes on information presented.

Good Interagency Coordination Among Panel Members

Panel membership consists of individuals from various disciplines representing several state agencies and non-governmental interests. Audit work indicated panel members effectively cooperate to promote fairness and to assure distribution of JDIP funds and requests for contingency fund money meet judicial district needs while maintaining fund solvency. Additionally, panel members deliberately consider information presented and reach mutually acceptable options resulting in a typically unanimous voting history.

Conclusion

Panel members, representing various juvenile justice interests, effectively cooperate to meet youth court funding needs while maintaining contingency fund solvency.

The Department Monitors Program Expenditures for Youth Courts

We reviewed department monitoring of youth court program expenditures. The department employs five regional administrative officers whose responsibilities include monitoring JDIP expenditures and providing each youth court a monthly expenditure report of current and encumbered, or projected, expenditures. Encumbrances are calculated using youth court projections for youth in placements or receiving services. Regional administrative officers also calculate amounts parents are capable of contributing to placement costs using state parental child support payment guidelines.

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Conclusion

The Department of Corrections provides monthly expenditure reports to youth courts for monitoring expenditures and assists youth courts in determining recommended parental contributions for placement costs.

Limited Youth Court Management Information

Because youth courts were independent local entities before state assumption of district courts, there has been no statewide case management information system. The program uses the Child and Adult Protective Services (CAPS) system to track and pay for most placements and some services. However, CAPS was not designed for youth court purposes or juvenile probation case management. Consequently, youth court data relates primarily to expenditures, with minimal information available for extensive evaluation related to performance measures, such as outcomes of placements.

Judicial Branch Is Implementing A Management Information System

The Judicial Branch obtained funding for and is implementing an automated youth court management information system statewide. The panel also approved allocating \$174,000 of unexpended contingency fund money from fiscal year 2004 to the Judicial Branch to purchase a risk assessment component to supplement the management information system. According to Court Administrator's personnel, this new system will improve the Judicial Branch's ability to obtain management information necessary for evaluating youth court activities, including program outcomes. The Department of Corrections and other agencies are also working cooperatively to develop a model for sharing juvenile justice data maintained in multiple management information systems.

Conclusion

Limited program information is available for ongoing program evaluation and management. However, the Judicial Branch is implementing a new management information system designed to meet evaluation and management purposes.

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Youth Court Practices Affect Expenditures

Youth courts have a variety of placement options ranging from independent living programs and foster homes to residential facilities providing intensive treatment. Additionally, youth courts commonly use program funds to help pay for community-based treatment and services. Program documentation and interviews indicate differences in youth court practices and how they use program funds, which can affect funds available for other youth courts or other juvenile justice system needs. Using program information, we were able to separate placement expenditures into several basic expenditure categories. The following sections provide more specific information about youth court placements and services and the resulting impact on expenditures.

Youth Group Homes are the Most Commonly Used Placement Option

Instate youth group homes are the most commonly used placement, accounting for approximately 68 percent of non-shelter home placements in FY 2004. We define a non-shelter home placement as a placement providing treatment or therapeutic services. A shelter home placement generally is a temporary holding facility pending further youth court placement decisions. Of the 22 youth courts, 6 used group homes for more than 75 percent of youth placements, while 7 used group homes for 50 percent or less of their out-of-home placements.

Some Youth Courts Use a Military Therapeutic Program

Historically, youth courts have had several alternative program placement options in Montana, including a private therapeutic wilderness program. However, since FY 2004, youth courts have primarily used a military therapeutic program in west-central Montana operated by a private contractor. The purpose of the military model is to provide structure, discipline, and integrity to promote treatment and education progress. The statewide average for military therapeutic program placements for FY 2004 was 10 percent. Six youth courts used this program for 25 percent or more of their placements, and 3 used it for more than 40 percent of their placements.

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Some Youth Courts Use Out-Of-State Placements More Extensively Than Other Youth Courts

Out-of-state placements account for approximately 10 percent of all youth court placements. Nine youth courts used out-of-state placements for more than 10 percent of youth placements, and four youth courts used out-of-state placements for more than 40 percent of their placements.

Other Placement Options

Youth courts have a variety of other placement options that account for a small percentage of placement expenditures. Independent living programs and foster homes are used much less frequently because of limited availability or they do not provide the level of service many juveniles need. Also, state or federal programs may partially or entirely cover costs for youth determined to need specialized mental health services in a residential facility.

Costs Vary Among Types of Placements

Differences in daily rates and lengths of stay among different types of placements can affect JDIP costs. Also, youth courts commonly rely on state or federal subsidy or cost-share programs to pay for a portion of placement costs. However, if a placement is not eligible for cost-sharing, youth courts may have to pay all placement costs. Table 7 provides information about overall contracted placement rates, average daily costs paid with JDIP funds, and average lengths of stay for the most commonly used types of placements.

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Table 7

FY 2004 Average Daily JDIP Rates and Length of Stay by Placement Type

Placement Type	Contracted Daily Rate	Average Daily JDIP Rate*	Average Length of Stay (Days)
In-state Group Home	\$37.71–\$113.39	\$52.25	176
Military Therapeutic Program	\$158.00	\$147.22	239
Out-of-State Placement	\$122.40–\$300.00	\$101.23	279

* Daily rate paid by youth courts.

Source: Department of Corrections (unaudited).

Differences in placement costs noted in Table 7 can substantially affect the number of youth served and services provided. During FY 2004, for example, youth courts that relied primarily on group homes for youth placements tended to spend more money for placement alternatives and intervention programs and had fewer requests for contingency fund money. Conversely, youth courts that used higher-cost placements more extensively, tended to request more money from the contingency fund and spend less JDIP money for non-placement services. Also, some youth courts requesting contingency fund money tended to place a lesser percentage of youth in a state correctional facility.

Shelter Home Use Varies

In addition to expenditures for treatment facilities and programs, youth courts also expend program funds for shelter home placements. Program data indicates youth court use of shelter homes varies significantly. Youth courts typically use shelter homes as temporary placements pending youth court action such as adjudication, evaluations, or transfer to treatment programs or facilities. The statewide median number of days for shelter home placements was 11 days, and the median days for individual youth courts ranged from 2 days to 40 days.

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The FY 2004 average daily rate for shelter home placements was \$76, and ranged from approximately \$54 to \$93 per day.

Shelter Home Use Affects JDIP Expenditures

Analysis indicated the length of shelter home placements significantly impacts expenditures. We estimated the statewide cost in FY 2004 for keeping youth in shelter home placements longer than 21 days was approximately \$328,457 and cost one youth court \$83,000. The statewide cost for placements longer than 30 days was approximately \$220,455. Estimations were based on placement days and average shelter home daily rates for each youth court. We based our estimations on periods of 21 days and 30 days because most shelter home placements were less than three weeks, and we added some additional leeway for potential unexpected delays in moving youth out of a shelter home placement.

Some Youth Courts Use Community-Based Services More Extensively

Some youth courts spend greater amounts of their allocation for community-based services. For example, in FY 2004, four youth courts spent more than 20 percent of their allocation on non-placement services, and two youth courts spent more than 50 percent of their allocation on non-placement services. Youth courts commonly contract with school districts, local organizations, or private sector businesses for these types of programs.

Youth Correctional Facility Placements Vary

All youth court personnel interviewed stated they make extensive efforts to avoid placing youth in out-of-home placements, including youth correctional facilities. However, placements in youth correctional facilities varied widely among youth courts, with some youth court judges less likely to place youth in these facilities than other judges. Since youth courts do not incur costs for state correctional facility placements, not using them when reasonably appropriate can reduce JDIP funds for referred youth.

Summary of Youth Court Expenditures

Table 8 summarizes each of the types of program expenditures by youth court, and includes percentage of youth court expenditures for different expenditure types. Individual youth court expenditures will vary from funds allocated to a youth court.

Table 8
Youth Court JDIP Expenditures by Category
FY 2004

JUDICIAL DISTRICT	Total Expenditures	Group Home Placements		Military Therapeutic Program	Out-of-State Placements		Other Placements	Shelter Home Placements		Non-Placement Services	
1	\$421,329	\$169,537	40.24%	\$50,972	\$19,288	4.58%	\$6,621	\$97,162	23.06%	\$77,750	18.45%
2	\$270,881	\$63,582	23.47%	\$10,270	\$116,813	43.12%	\$0	\$69,297	25.58%	\$10,920	4.03%
3	\$63,237	\$25,564	40.42%	\$0	\$0	0.00%	\$794	\$34,084	53.90%	\$2,796	4.42%
4	\$882,717	\$291,451	33.02%	\$155,231	\$200,939	22.76%	\$18,326	\$175,092	19.84%	\$41,678	4.72%
5	\$61,429	\$25,292	41.17%	\$0	\$0	0.00%	\$3,960	\$32,177	52.38%	\$0	0.00%
6	\$6,380	\$6,380	100.00%	\$0	\$0	0.00%	\$0	\$0	0.00%	\$0	0.00%
7	\$50,640	\$260	0.51%	\$0	\$46,304	91.44%	\$641	\$3,434	6.78%	\$0	0.00%
8	\$706,127	\$465,327	65.90%	\$8,337	\$11,573	1.64%	\$33,178	\$88,033	12.47%	\$99,681	14.12%
9	\$124,372	\$51,921	41.75%	\$36,359	\$0	0.00%	\$16,977	\$14,627	11.76%	\$4,490	3.61%
10	\$54,085	\$22,125	40.91%	\$12,166	\$0	0.00%	\$4,385	\$15,409	28.49%	\$0	0.00%
11	\$591,058	\$209,905	35.51%	\$136,292	\$76,553	12.95%	\$26,819	\$102,914	17.41%	\$38,575	6.53%
12	\$114,549	\$74,522	65.06%	\$0	\$8,775	7.66%	\$0	\$6,179	5.39%	\$25,073	21.89%
13	\$388,676	\$77,607	19.97%	\$26,702	\$157,069	40.41%	\$73,514	\$30,167	7.76%	\$23,617	6.08%
14	\$36,426	\$8,471	23.25%	\$0	\$11,701	32.12%	\$434	\$4,538	12.46%	\$11,281	30.97%
15	\$94,251	\$0	0.00%	\$38,682	\$55,569	58.96%	\$0	\$0	0.00%	\$0	0.00%
16	\$69,809	\$5,053	7.24%	\$0	\$4,048	5.80%	\$0	\$16,708	23.93%	\$44,000	63.03%
17	\$133,996	\$41,558	31.01%	\$77,597	\$0	0.00%	\$0	\$5,382	4.02%	\$9,460	7.06%
18	\$232,740	\$100,251	43.07%	\$20,540	\$67,521	29.01%	\$2,122	\$41,198	17.70%	\$1,108	0.48%
19	\$92,140	\$39,636	43.02%	\$0	\$0	0.00%	\$4,269	\$45,288	49.15%	\$2,947	3.20%
20	\$421,224	\$137,846	32.73%	\$255,205	\$0	0.00%	\$1,592	\$26,206	6.22%	\$377	0.09%
21	\$261,953	\$58,426	22.30%	\$0	\$0	0.00%	\$1,300	\$47,239	18.03%	\$154,988	59.17%
22	\$165,698	\$4,737	2.86%	\$126,000	\$23,150	13.97%	\$5,778	\$6,033	3.64%	\$0	0.00%
Statewide	\$5,243,718	\$1,879,451	35.84%	\$954,351	\$799,303	15.24%	\$200,709	\$861,165	16.42%	\$548,739	10.46%

Note: Percentages reflect each youth courts percent of total expenditures by category. Does not include prevention fund expenditures.

Source: Compiled by the Legislative Audit Division from Department of Corrections records.

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Youth court placements and use of program funds differs among judicial districts. Various factors can impact youth court placement practices and impact expenditures, such as availability of placement options, provider proximity to a community, community standards, youth court preferences for certain types of programs or providers, and judicial philosophies. More extensive use of placements that increase expenditures can lead to increased demand for contingency fund money. Ultimately, this may reduce availability of contingency fund money for all youth courts and reduce funding for other juvenile justice system needs.

Conclusion

Various factors, including availability and proximity of placement options and judicial philosophies, impact youth court placement decisions. However, some practices, such as more extensive use of higher cost placements, can increase placement expenditures resulting in less money for community-based services and increased requests for contingency fund money.

Panel Promotes Efforts To Control Costs

The Cost Containment Review Panel promotes efforts to control expenditures from the contingency fund. Panel meeting minutes documented discussions related to increasing efforts to control youth court expenditures. Discussion topics included requiring youth courts to implement best management practices before requesting contingency fund money and to monitor expenditures and placements more closely. Examples of suggestions or recommendations made directly to youth courts included:

- ▶ Assessing youth in high-cost placements more frequently and removing youth if a placement is not demonstrating progress.
- ▶ Using an assessment tool to determine if mental health concerns exist before referring youth for mental health evaluations.
- ▶ Reviewing high-cost placements to determine if less costly alternatives would be appropriate.
- ▶ Monitoring shelter home placements more closely to reduce length of stays.

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Conclusion

The panel actively promotes efforts to control youth court expenditures by providing recommendations to youth courts requesting money from the contingency fund.

The following chapter presents more specific information about, and recommendations for, improving program administration and oversight.

Chapter III - Improving Program Administration and Oversight

Introduction

The Juvenile Delinquency Intervention Program (JDIP or program) is relatively new. Although the Legislature initiated JDIP as a pilot program in 1997, it was not implemented in its current structure until 2001. Since then, the Department of Corrections (department) and the Cost Containment Review Panel (panel) have focused their efforts on implementing the program and responding to youth courts' efforts to understand the program and meet youth court funding needs. During the audit we found the department, panel, and Judicial Branch have all identified program areas needing improvement. This chapter presents information about areas for improvement and recommendations for addressing program administration and oversight.

Improving Program Administrative Rules

The department needs to modify administrative rules to fully implement JDIP as the Legislature intended. Existing administrative rules address overall program operations and some statutory requirements such as use of risk assessment instruments. However, JDIP rules do not address the following critical areas related to program management and oversight:

- ▶ Allowable expenditures and uses of program funds are not defined.
- ▶ Criteria or standards for the program do not exist.

Additionally, some program rules should be updated to better reflect legislative intent and current practices.

Statutes Require Administrative Rules

The Montana Administrative Procedure Act defines an administrative rule as any “agency regulation, standard, or statement of general applicability that implements, interprets, or prescribes law or policy or describes the organization, procedures, or practice requirements of an agency.” Administrative rules are required to ensure agencies' practices and requirements are consistently applied, ensure the regulated community can manage activities in accordance with practices and requirements, and involve the public in rule

Chapter III - Improving Program Administration and Oversight

adoption. Furthermore, section 41-5-2006, MCA, states the department shall adopt rules necessary to implement the program, including but not limited to:

- ▶ Developing procedures for panel operations.
- ▶ Evaluating youth courts to ensure courts are using early intervention strategies and community alternatives and are effectively controlling youth placement costs.
- ▶ Monitoring youth courts to promote consistency and uniformity in juvenile offender placements.
- ▶ Monitoring and auditing each youth court to ensure funds are being used as required by law.
- ▶ Distributing unexpended allocation funds to youth courts.
- ▶ Adopting rules encouraging use of local, regional, and state resources for the placement of troubled youth.

Clarifying Allowable JDIP Expenditures

The department and panel established policies restricting how youth courts may use JDIP funds. However, interviews and program documentation indicated uncertainty and some disagreement relating to allowable expenditures, which is not addressed in administrative rules. Needed areas for clarification in administrative rules about allowable expenditures include:

- ▶ Personal services and equipment. The department contends program funds were not intended to be used for personal services and equipment. Some youth courts have contended these are allowable expenditures since neither state law nor administrative rule prohibit them.
- ▶ Allowable contingency fund expenditures. Interviews indicated the contingency fund should be used only to help youth courts pay for “unusual” expenditures, such as youth needing higher-cost placements for mental health treatment. At least one youth court has used contingency fund money to pay for ongoing program expenditures such as community-based services.
- ▶ Out-of-state placements. The department is required to adopt rules that promote using local, regional, or state facilities for youth placements. Administrative rules do not address this issue, and audit work indicated some youth courts use out-of-state placements more extensively than others.

Chapter III - Improving Program Administration and Oversight

Updating and Modifying Program Definitions

Review of program statutes and rules identified a number of undefined terms that appear critical to program administration and panel decision-making. For example, administrative rule requires youth courts to use prevention funds for “intervention programs and services,” but does not define “intervention program” or distinguish between this and other terms generally referring to community-based services and programs.

Administrative rules may also need to be updated to better reflect legislative intent and existing practices. Audit work indicated some youth courts implemented “early intervention” programs such as after school programs for youth identified by schools or others to be at risk for future youth court referrals. Administrative rules, however, define “early intervention” programs as supervision or services provided to first-time misdemeanor offenders to prevent further involvement in the juvenile justice system.” This definition suggests youth courts may not use program funds for youth considered to be at-risk for delinquent behavior, but not referred to a youth court. Legislative intent appears to encourage these types of programs.

Limited Rules May Affect Perception of Program

Lack of comprehensive administrative rules addressing program administration and allowable JDIP expenditures can affect youth courts’ perceptions of options and responsibilities for managing program expenditures. Most department and youth court personnel we interviewed indicated awareness of the responsibility to stay within their annual JDIP allocation and believed the contingency fund should be used only for unusual or unexpected placement costs. However, interviews and documentation also suggested some youth courts simply perceived the contingency fund as another funding source for placements or appeared reluctant to modify practices or consider using less costly placement alternatives to stay within their annual allocation.

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JDIP Rules Focused on Processes

The department focused on general program procedures and criteria for allocating JDIP funds when it initially adopted administrative rules in 2002, but did not adopt rules to fully implement legislative requirements and intent. As the program evolves, rules should be updated and modified to clarify program requirements and allowable expenditures. Since changing the rules will likely affect panel activities, the department should consult with the panel when drafting proposed rule modifications.

During the audit, department management stated they are modifying the administrative rules, and panel members stated they have participated in the rule-making process. Since the proposed administrative rule changes had not been adopted, we did not evaluate whether the modifications would address audit findings.

Recommendation #1

We recommend the Department of Corrections, in consultation with the Cost Containment Review Panel, modify administrative rules to clarify allowable expenditures and establish program standards in accordance with state law and legislative intent.

Allocating Program Funds to Youth Courts

Administrative rule requires the Cost Containment Review Panel to develop a formula for allocating program funds to youth courts based on factors related to juvenile justice. The following sections present information and recommendations for improving how funds are allocated to youth courts.

Calculating Program Fund Allocations

The department calculate youth court annual allocations based on the panel's methodology for distributing JDIP funds. Our examination determined the department's calculations were applied consistently to all youth courts.

Math Principles Were Not Used Correctly

However, we also determined the department incorrectly applied math principles in the calculation formula since 2003. The department "averaged" youth courts' percentages for each factor,

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which resulted in funds being separated into three equal amounts, or “pots” - one for each allocation factor. The panel intended for funds to be allocated according to the relative “weights” for the total of all factors for each youth court, not youth courts’ percentages of statewide totals for each factor. To correctly calculate the amount to be allocated to each youth court, the formula must sum the factors for each judicial district and then divide by the statewide sum for the factors.

Department personnel performed the calculations, but did not have their calculations reviewed by a person trained specifically in mathematics. The following table shows the difference in allocations using the department's calculations and corrected calculations for each judicial district.

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Table 9

Difference in Allocations Using Corrected Mathematical Formula

Judicial District	Department Calculated FY2004 Allocation*	Mathematically Correct Calculated FY2004 Allocation	Allocation Difference Using Corrected Calculation
1	\$333,573	\$283,251	(\$50,322)
2	\$190,432	\$181,839	(\$8,593)
3	\$94,806	\$99,085	\$4,279
4	\$551,413	\$522,485	(\$28,928)
5	\$110,830	\$129,711	\$18,881
6	\$77,408	\$84,283	\$6,875
7	\$115,050	\$120,082	\$5,032
8	\$652,601	\$449,769	(\$202,832)
9	\$180,364	\$218,357	\$37,993
10	\$77,543	\$82,343	\$4,800
11	\$393,456	\$378,737	(\$14,719)
12	\$169,611	\$165,116	(\$4,495)
13	\$540,869	\$585,991	\$45,122
14	\$47,793	\$59,383	\$11,590
15	\$97,551	\$132,262	\$34,711
16	\$151,574	\$175,906	\$24,332
17	\$122,280	\$128,789	\$6,509
18	\$271,854	\$311,648	\$39,794
19	\$118,331	\$120,728	\$2,397
20	\$222,475	\$231,397	\$8,922
21	\$165,223	\$183,912	\$18,689
22	\$145,306	\$185,269	\$39,963
	\$4,830,343	\$4,830,343	\$0

* Does not include \$402,969 of FY 2003 unexpended juvenile placement appropriation funds that were distributed to youth courts as shown in Table 4 on page 14.

Source: Compiled by the Legislative Audit Division from Department of Corrections records.

As the table illustrates, incorrect calculations resulted in some youth courts receiving substantially more or less funding than if the allocations were correctly calculated.

Recommendation #2

We recommend the Department of Corrections implement procedures to ensure calculations for distributing Juvenile Delinquency Intervention Program annual allocation funds are mathematically correct.

We provided the panel with the results of our analysis in March 2005, and administrative rule requires the panel determine an allocation methodology by April 30 for the next fiscal year. The panel decided to calculate FY 2006 allocations using the same calculation methods to maintain historical funding levels until the panel also examined other components of the allocation formula discussed in the following section.

Improving the Allocation Formula

We examined the panel's allocation formula to determine whether program funds were allocated to youth courts based on their resource needs. Comparison of program allocations and expenditures for FY 2000 through FY 2004 indicated some youth courts spent substantially more or less than their annual allocations. Youth courts that spent more than their allocation received supplemental funding from the contingency fund. The other youth courts transferred remaining funds to their prevention funds accounts. The following table presents FY 2004 allocation and expenditure data to illustrate the differences.

Table 10
FY 2004 Youth Court Allocation and Expenditure Data

Judicial District	FY2004 Youth Court Allocations	FY2004 Youth Court Expenditures	FY2004 Over/Under Expenditures	Percent Over or Under Allocation
1	\$361,415	\$421,329	\$59,914	16.6%
2	\$206,308	\$270,881	\$64,573	31.3%
3	\$102,703	\$63,237	\$(39,466)	-38.4%
4	\$597,427	\$882,717	\$285,290	47.8%
5	\$120,057	\$61,429	\$(58,628)	-48.8%
6	\$83,855	\$6,380	\$(77,475)	-92.4%
7	\$124,640	\$50,640	\$(74,000)	-59.4%
8	\$707,036	\$706,127	\$(909)	-0.1%
9	\$195,394	\$124,373	\$(71,021)	-36.3%
10	\$84,030	\$54,085	\$(29,945)	-35.6%
11	\$426,294	\$591,058	\$164,764	38.7%
12	\$183,754	\$114,549	\$(69,205)	-37.7%
13	\$585,997	\$388,676	\$(197,321)	-33.7%
14	\$51,782	\$36,426	\$(15,356)	-29.7%
15	\$105,690	\$94,251	\$(11,439)	-10.8%
16	\$164,227	\$69,809	\$(94,418)	-57.5%
17	\$132,474	\$133,996	\$1,522	1.1%
18	\$294,539	\$232,740	\$(61,799)	-21.0%
19	\$128,203	\$92,140	\$(36,063)	-28.1%
20	\$241,050	\$421,224	\$180,174	74.7%
21	\$179,003	\$261,953	\$82,950	46.3%
22	\$157,434	\$165,698	\$8,264	5.2%
Totals	\$5,233,312	\$5,243,719		

Source: Compiled by the Legislative Audit Division from Department of Corrections records.

As the table above illustrates, some youth courts exceeded their allocation by more than \$100,000 and some youth courts had substantial unexpended funds at the end of the fiscal year. Table 10 also shows the percentage of youth court expenditures over or under their allocations differed significantly in FY 2004, with some youth courts spending approximately one-half their allocations and other youth courts exceeding their allocations by 50 percent or more.

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The panel modified the allocation formula to address some youth courts' concern the formula did not meet their funding needs based on historical expenditures. To address this concern, the panel considered prior years expenditures when modifying the formula.

The Panel Could Identify Better Predictors of Youth Court Expenditures

We analyzed the panel's allocation factors to determine if they are good predictors of youth court expenditures. The panel has used three factors to allocate program funds to youth courts:

- ▶ Number of juvenile offenses committed.
- ▶ Poverty data.
- ▶ Youth population for ages 10-19.

We ran analyses using factors the panel selected and other juvenile justice data compiled by the Montana Board of Crime Control. Our analysis indicated two panel factors, juvenile offenses and youth population, are not the best predictors of youth court expenditures. While the panel's factors generally relate to juvenile delinquency, our analysis indicated more specific factors, such as offense types, appear to be better predictors of expenditures.

Comparative analysis of panel allocation factors and other juvenile justice information indicate the following factors appear to be better predictors of expenditures:

- ▶ Crimes against persons.
- ▶ Property crimes (increased property crimes do not increase expenditures).
- ▶ Drug crimes.
- ▶ Duplicated counts of youth offenders (youth counted for each referral to youth court).
- ▶ Poverty data (existing panel factor).

The Panel Can Use Statistical Analyses to Develop a Better Allocation Formula

We used the five factors bulleted above to create a hypothetical allocation formula. The hypothetical formula substantially reduced the dollar variation between allocations and expenditures. In other words, because the factors used in the hypothetical formula were

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better predictors of judicial district expenditures, the differences between allocations and expenditures were substantially less.

We based our hypothetical formula on actual youth court expenditures, which presumes expenditures are representative of youth court needs. Some panel members expressed concern that using this presumption youth courts could simply increase their allocation by increasing expenditures. However, the panel could determine youth court funding needs based on other factors. Additionally, the panel could implement a formula that promotes or discourages specific practices. Examples of factors or strategies the panel could incorporate into an allocation formula include:

- ▶ Statewide average placement rates for different types of programs or facilities, including non-Medicaid and out-of-state placements.
- ▶ Statewide average length of shelter home placements.
- ▶ Costs for implementing community-based programming and services.
- ▶ Relationships between types of offenses and need for different types of placements.

Panel Should Analyze Youth Court Resource Needs

The panel has based its formula upon described general factors. Panel members and youth court personnel expressed concerns the allocation formula has not distributed funds based on youth courts' needs. In response, the panel implemented minor adjustments to the allocation formula, such as using different data to determine poverty rates and including status offenses in the methodology. However, the panel has not conducted a more extensive analysis of juvenile justice data to determine whether other factors, such as those we identified, may be better predictors of youth courts' resource needs.

Summary

The panel does not have designated support staff to conduct a thorough analysis of juvenile justice data. Consequently, the panel will need to seek technical assistance. The panel could request assistance from the department because it has general responsibility for program administration, or use contingency fund money to contract for these services.

Recommendation #3

We recommend the Cost Containment Review Panel:

- A. Seek technical assistance to analyze juvenile justice data to identify factors that are better predictors of youth court resource needs, and**
- B. Use the analysis to develop an allocation formula to distribute Juvenile Delinquency Intervention Program funds to youth courts based on resource needs.**

Improving Accountability for Program Expenditures

JDIP statutes emphasize accountability for program expenditures and youth court activities. Department responsibilities include evaluating youth court efforts to control placement expenditures and encouraging youth courts to use local, regional, and state resources for youth needing out-of-home placements. The panel has inherent responsibilities for basing its oversight and management decisions regarding program funds on those same principles. The next two sections provide information and recommendations about department evaluations and panel oversight of program funds.

Expanding Department Program Evaluation

The department conducts annual on-site reviews at several youth courts and “paper” reviews for other youth courts. Department reviews focus on compliance with program requirements such as verifying youth courts completed juvenile offender risk assessments and submitted placement recommendations for youth placement committee review. The reviews also track JDIP expenditures for basic placement and service categories and whether youth move to higher or lower intensity placements or services. The department does not conduct more extensive evaluation related to performance measures, such as measuring juvenile recidivism.

Establishing JDIP Performance Measures

The department should expand its evaluation activities to increase emphasis on program performance measures. Best management practices recommend organizations implement performance measures because they provide quantifiable information for evaluating program effectiveness. For juvenile justice agencies, performance measures are quantifiable indicators that address:

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- ▶ Outcomes – benefits to the public, such as a quantifiable reduction in the number of juvenile offenses or out-of-home placements.
- ▶ Outputs – number of services provided, such as the number of youth a community-service program supervises.
- ▶ Efficiency – service productivity, such as the cost per service provided or time in a placement or shelter home.
- ▶ Inputs – resources or demands on resources that affect performance, such as the number of youth court referrals.

Performance measures also allow comparison of youth court activities, as state law requires. For example, some youth courts spent substantially greater percentages of money on shelter home placements than other youth courts in FY 2004. However, without considering expenditures in a measurable context, such as average number of shelter home placement days or number of placements, expenditure data has minimal value.

Measuring Juvenile Recidivism

Our review of juvenile justice literature and other states' juvenile programs indicated recidivism is a basic performance indicator. It provides information about the effectiveness of youth court efforts to reduce the rate at which juvenile offenders return to criminal behavior after entering the system. Department management stated they have not attempted to define recidivism because of varying perceptions of what constitutes recidivist behavior. For example, does recidivism mean only the commission of a new offense or does it also include violation of a probation requirement, such as not attending school or a treatment program?

Since recidivism is simply a performance measure, the department could establish several "recidivism" definitions to measure different outcomes. Our review indicated other states have adopted multiple definitions of recidivism to measure specific program objectives. For example, a juvenile justice program might define recidivism for first-time misdemeanor offenders differently than juveniles with histories of extensive or serious delinquent behavior requiring out-of-home placements or extensive treatment.

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Performance Measures Also Essential for Panel Decision-Making

The panel also needs performance-based evaluation information to promote program purposes and make objective and supportable decisions related to:

- ▶ Youth court allocations. Performance data could provide useful information for analyzing program activities and developing a funding methodology that encourages recommended practices or activities.
- ▶ Contingency fund requests. Performance information is useful criteria for evaluating contingency fund requests and justifying panel decisions. For example, the panel could require youth courts demonstrate youth in out-of-state placements could not receive similar services in Montana placements.
- ▶ Prevention fund plans. Performance measures would provide useful information for evaluating youth court plans for using prevention funds, and determining whether to approve continued expenditures on implemented programs or recommend those programs to other youth courts.

The department's ability to conduct extensive evaluations of youth court activities related to JDIP has been limited because youth courts have not had a uniform management information system. However, the department also has not established basic performance measures based on legislative intent, or recommended management practices that youth courts could track with available resources. For example, the department has not evaluated or reported on whether the program has reduced out-of-state placements or youth courts are giving preference to Montana facilities that meet youth placement needs. Additionally, the department needs to identify and begin collecting baseline data for comparative evaluation of program activities, including measuring results of changes to or implementation of practices, program, and strategies.

The Department Should Consult with the Panel

The Office of the Court Administrator has assumed responsibility for implementing a youth court management information system, which management stated will substantially increase youth courts' capabilities for tracking and reporting program data that was previously too labor intensive to collect. The department could also consult with the Judicial Branch to identify information the new system can provide and prepare alternative methods for collecting

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data the system cannot track but the department considers essential for program evaluation purposes. Additionally, since the department and Judicial Branch have mutual interests and needs for developing performance measures, coordination could reduce potential duplication of effort.

Summary of Department Program Evaluation

The department should expand JDIP evaluations to increase emphasis on establishing performance measures and furthering legislative intent for a performance-based program. By expanding evaluations, the department can provide better management information for panel and legislative decision-making. Since the Cost Containment Review Panel has an inherent interest in comprehensive program evaluations, the department should consult with the panel during the development and implementation process.

Recommendation #4

We recommend the Department of Corrections, in consultation with the Cost Containment Review Panel:

- A. Establish and implement performance measures for youth court programs and services funded with Juvenile Delinquency Intervention Program funds.**
- B. Initiate collection of baseline data for effective comparison and monitoring of ongoing Juvenile Delinquency Intervention Program activities.**

Improving Panel Decision-Making and Oversight of JDIP Funds

The panel has decision-making responsibilities for managing the contingency fund and approving youth court plans for prevention funds. However, the panel does not presently have formal criteria for evaluating youth court requests for contingency funds or proposals for using prevention funds.

Managing the Contingency Fund

While the contingency fund has never been fully exhausted because of youth court requests, the panel has expressed concerns about how to appropriately address those requests while maintaining fund solvency throughout the fiscal year. For example, by February 2005, with four months remaining in the fiscal year, the panel had received almost \$1.1 million in contingency fund requests from just 8 of 22

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youth courts. While only \$635,025 of contingency fund money was ultimately expended for fiscal year 2005, this example demonstrates the importance and challenges of managing the contingency fund and still attempting to ensure youth courts obtain what they need to meet the needs of youth.

Improving Contingency Fund Management

The panel could enhance contingency fund management by clarifying youth court requirements for requesting contingency fund money and decision-making criteria. Program documentation and observations indicated the panel primarily considers a youth court's immediate funding needs and overall contingency fund solvency when approving requests for these supplemental funds. However, the panel considered only informally other factors such as use of high-cost placements or whether a youth court implemented previous panel recommendations for controlling JDIP expenditures.

Additionally, the panel does not set formal requirements on how youth courts may use contingency fund money. Consequently, the panel has less assurance youth courts use contingency fund money as the panel intended or in accordance with legislative intent. For example, one youth court requested contingency fund money to meet emergent funding needs for placements, but spent some of the money for an ongoing community-based program. In another instance, the panel advised a youth court requesting \$150,000 to explore less costly alternatives to high-cost placements. Despite concerns about extensive use of high-cost placements, the panel did not limit use of disbursed funds. Recognizing this issue, the panel discussed modifying practices to better clarify how youth courts may expend contingency fund money.

Examples of criteria or practices the panel could implement to improve contingency fund management include:

- ▶ Capping or limiting contingency fund disbursements to a youth court.
- ▶ Restricting contingency fund money to payments for specific types of placements or services.

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- ▶ Requiring youth courts to obtain department approval before expending funds on high-cost or out-of-state placements.
- ▶ Requiring youth courts to address panel recommendations for controlling expenditures before being eligible for contingency fund money in subsequent years.

Additionally, the panel should incorporate the department's evaluations of JDIP activities as part of its decision-making criteria and procedures.

Youth Courts Need to Know Program Criteria

As previously stated, the panel has always fully or partially approved youth court requests for contingency fund money. Additionally, our audit work suggests there are youth court personnel who perceive the contingency fund to be just another funding resource, rather than an emergency mechanism to address unexpected placement or service needs. As a result, there has been a variety of requests (in terms of reasons) for contingency funds. We believe it is important for all youth courts to develop a common understanding of what the contingency fund can be used for and be aware of how the Cost Containment Review Panel makes its decisions regarding these funds.

Improving Oversight of Prevention Funds

The panel can also enhance its oversight of prevention funds expenditures. Panel instructions for submitting plans for using prevention funds requires youth court proposals include a narrative description and expected outcome for prevention and intervention programs. The instructions also state "outcomes should be related to the initial assessment and relate to reduction of delinquency in individuals or the district as a total." Program documentation, however, indicated variations in plan details provided, and required outcome measures were either vague or not provided. Additionally, the panel does not have formal standards for reporting outcomes. To improve oversight of prevention fund expenditures and uses, the panel should establish formal criteria related to performance measures. For example, another state with performance measures for community-based intervention and prevention programs requires plans:

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- ▶ Be data driven and outcome based.
- ▶ Have a clearly articulated objective.
- ▶ Be supported by credible research.
- ▶ Have data to benchmark performance.
- ▶ Include an evaluation and assessment component.

Establishing clear criteria will improve the panel's ability to determine whether to approve plans, allow continued funding for a program, and encourage or approve implementation of similar programs in other judicial districts.

Summary

Since the panel was formed in 2001, it focused its efforts on understanding the program and responding to youth courts' immediate funding needs. Consequently, the panel has not established formal criteria for its decision-making responsibilities. The panel should now begin developing and implementing criteria for evaluating and approving youth court requests for contingency fund money and proposals for using prevention funds to more fully implement legislative intent for a performance-based program.

Recommendation #5

We recommend the Cost Containment Review Panel, in consultation with the Department of Corrections, implement formal decision-making criteria for evaluating and approving youth court requests for contingency fund money and proposals for using prevention funds.

Chapter IV – Updating the Youth Court Act and the Juvenile Delinquency Intervention Program

Introduction

In Chapter III, we presented recommendations for improving the administration of the Juvenile Delinquency Intervention Program (JDIP or program). Our recommendations addressed existing program activities related to implementation of administrative rules, allocation of program funds, and oversight of program expenditures and activities. Audit work also indicates the Youth Court Act and JDIP statutes are outdated due to state-assumption of district courts. This chapter presents information about modifying the Youth Court Act to reflect legislative changes to Montana's district court system. Additionally, we present alternatives for JDIP and the funding structure for youth court placements due to state-assumption of district courts.

The Youth Court Act Should Be Updated

Until 2001, district courts and their respective youth courts were local government entities, with county governments funding most court activities, except youth placements. However, Montana's Youth Court Act, which includes the statutory language for JDIP administration, was not modified to reflect state-assumption or funding for youth court placements and services. For example:

- ▶ Section 41-5-130, MCA, states youth court costs for placements and services will be paid from juvenile placement funds the legislature appropriates, while section 41-5-104, MCA, indicates county commissioners have responsibilities for paying for youth court costs.
- ▶ Section 41-5-2002, MCA, states two purposes of JDIP are to "increase the ability of local government to respond to juvenile delinquency," and "enhance the ability of local government to control costs." However, the Department of Corrections (department) and the Judicial Branch, not local governments, now have these responsibilities.

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State Youth Court System

State law establishing JDIP indicates legislative intent is to promote consistency and uniformity in the placement of juvenile offenders. However, Montana does not have a centralized or consolidated youth court system. File reviews indicated, and interviews with applicable personnel confirmed, substantive operational and management differences exist among youth courts. Examples of differences we identified during audit work include:

- ▶ Status offense referrals. Youth courts handle status offenses differently. Status offenses are acts committed by a juvenile that would not be considered a criminal offense if committed by an adult. One youth court we visited did not accept youth referred for status offenses and in another judicial district juveniles cited for possession of alcohol were handled by justice court rather than referred to youth court. Another judicial district contracted for case management of some status offenders. Yet other youth courts accept and supervise youth referred for status offenses.
- ▶ Fee assessments. Youth court fees vary substantially. For example, some youth courts assess supervision fees of up to \$100 per court-ordered probation while others assess no supervision fees, and one youth court allows youth to reduce a probationary period by paying a higher supervision fee. The Office of the Court Administrator adopted a uniform fee schedule, but the schedule allows youth courts to either determine whether to assess certain fees or to set fees within an allowable range.
- ▶ Reporting standards. The Montana Board of Crime Control (board) collects and reports juvenile justice data that youth courts enter into CAPS. Interviews and documentation from the panel and the board indicated youth courts do not uniformly track and report juvenile offenses and referrals.

These differences continue to exist because of the evolving nature of court administration since state-assumption in 2001.

The Youth Court Act, which includes JDIP statutes, should be updated to reflect the current state-funded district court system. Since both the department and Judicial Branch have responsibilities for oversight and funding of youth court activities, those agencies

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should cooperatively seek legislation updating the Youth Court Act. Additionally, when the Legislature created a state-funded district court system, it increased the potential for implementing a uniform juvenile justice system. If the Legislature determines this is in the best interests of the state's youth, the Legislature may also have to address whether youth court programmatic and administrative activities should be administered by district court judges who are locally elected officials, or be administered through the Supreme Court's Office of the Court Administrator, similar to state programs administered by executive branch agencies.

Recommendation #6

We recommend the Department of Corrections and the Supreme Court cooperatively seek legislation to update the Youth Court Act as outlined in the report, including the Juvenile Delinquency Intervention Program, to reflect the current structure of and funding for Montana's youth courts.

Future of the Juvenile Delinquency Intervention Program

Implementing Recommendation #6 should also include reconsidering the organizational location of, or the need for, the Juvenile Delinquency Intervention Program. The Legislature's overall intent was to provide youth courts, which were then local government entities, the opportunity to manage all aspects of juvenile placements and services by providing each youth court an annual allocation. The Legislature designed JDIP much like a grant program: each youth court and the department sign an agreement, or contract, that specifies how the youth court may use program funds.

Alternatives for JDIP and Youth Court Funding

Since judicial districts are now under the administrative umbrella of the Judicial Branch, the state may no longer need JDIP in its current structure to fund youth court placements and services. The following sections present four alternatives for JDIP and funding youth court placements and services for agency and legislative consideration. Changing the organizational location of the program may also require modifying the structure or purpose of the Cost Containment

Chapter IV – Updating the Youth Court Act and the Juvenile Delinquency Intervention Program

Review Panel (panel). The following alternatives are not listed in any order of preference.

Alternative A: Department of Corrections Retains JDIP

The Legislature could leave the program with the department, operating in its current manner, which is similar to a grant program. The department has an established administrative structure and capabilities for managing the program. Youth court and Judicial Branch representatives expressed concerns the department, an executive branch agency, controls appropriated funds ultimately intended for use by youth courts within the Judicial Branch.

Alternative B: Transfer the Program to the Judicial Branch

The Legislature could transfer the program and funding appropriations to the Judicial Branch. Judicial Branch personnel drafted legislation for the 2005 Legislative Session that would have implemented this alternative. Although the legislation was not introduced, representatives from the Judicial Branch and the department subsequently signed an interagency agreement that included provisions for jointly exploring similar legislation for the 2007 Legislative Session.

Alternative C: Create a Separate Entity to Manage the Program

The Legislature could create a separate administrative entity to manage the program. This alternative would require employing an executive director to manage program operations under the direction of a panel or board. The administrative entity could be attached to a state agency for administrative purposes, similar to some professional and occupational licensing boards. This alternative would probably require FTE to support program operations and increase administrative costs.

Alternative D: Eliminate the Juvenile Delinquency Intervention Program

The legislature could eliminate the program and appropriate funds for youth court placements directly to the Judicial Branch. Alternative D provides the Judicial Branch increased flexibility for managing funds for youth placements and services. For example, the Judicial Branch could distribute funds to youth courts similar to existing methods, or explore other programs or funding strategies.

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This alternative might eliminate the need for a Cost Containment Review Panel and resulting administrative costs.

Updating the Youth Court Act Does Not Affect Recommendations Premises

Updating the Youth Court Act, including modifying or repealing JDIP statutes, does not alter the need for effective program management and oversight, regardless of any legislative changes. Our recommendations are based on audit evidence of existing program practices and procedures and established principles for performance-based juvenile justice programs. Furthermore, implementation of program standards and performance measures are essential for promoting and demonstrating accountability of youth court activities and providing the Legislature with valuable and reliable information for making future policy decisions related to Montana's juvenile justice system.

Appendix A – Audit Scope and Methodology

Audit Scope

The Legislative Audit Committee requested a performance audit of the Juvenile Delinquency Intervention Program (JDIP or program). Audit scope focused primarily on program activities by the two entities with JDIP responsibilities:

- ▶ Department of Corrections (department). The department is responsible for program implementation, adoption of program rules, and program evaluations. Additionally, the department receives the legislative appropriation for JDIP funds and has authority for distributing the funds to youth courts.
- ▶ Cost Containment Review Panel (panel). The department appoints panel members. The panel has responsibility for determining how JDIP funds are allocated to individual youth courts, approving disbursements from the cost containment fund (contingency fund), and approving youth court plans for using youth intervention and prevention account funds (prevention funds). Panel decisions must comply with statutory and administrative rule requirements.

We also conducted a limited review of youth court activities to gain an understanding of operations and how youth courts use JDIP funds.

The audit period was generally limited to FY 2001 through FY 2004, although we included information that became available during FY 2005.

Scope Exclusions

Audit scope did not include examination of judicial districts' administration of youth courts or the Judicial Branch's limited administrative responsibilities of youth courts, including:

- ▶ Youth court expenditures of non-JDIP funds.
- ▶ Youth court efforts to identify alternative funding sources.
- ▶ Judicial district management and oversight of youth courts.
- ▶ Youth court judicial decisions.
- ▶ Youth court management information systems.
- ▶ Department management information systems.

Appendix A - Methodology

Additionally, audit scope did not include examining department use of juvenile placement funds for juvenile parole placements or services.

Methodology

We developed the following methodologies to meet audit objectives.

Audit Planning

To gain an understanding of JDIP and related youth court activities, we interviewed agencies' management and personnel about JDIP, reviewed a sample of program documentation, and reviewed reports of juvenile justice programs operating in other states. We also reviewed studies and information related to operating effective juvenile delinquency prevention programs

Audit Methodologies

During audit planning, we determined the following audit work was necessary to meet our audit objectives:

- ▶ Department administration of JDIP. Audit work included:
 - Reviewing department reports of program activities.
 - Reviewing documentation youth courts submitted to the department.
 - Interviewing department personnel about department program administration activities.
 - Interviewing youth court personnel about department program activities.
- ▶ Panel administration and oversight of program funds. Audit work included:
 - Reviewing panel documentation of meeting minutes and observing a panel meeting.
 - Interviewing panel members about panel activities.
 - Reviewing documentation youth courts submitted to the panel for consideration during their decision-making processes.
 - Interviewing youth court and department personnel about panel activities.
- ▶ Analyzing program expenditure data. We analyzed JDIP expenditure data submitted by youth courts to the department to examine how youth courts use program funds.

Examination Of Panel's Allocation Formula

- ▶ Youth court activities. We interviewed youth court personnel about their activities related to JDIP and reviewed case files.

We examined the panel's formula for distributing JDIP funds to the twenty-two youth courts using regression analysis. Regression analysis is a statistical technique used to determine the predictive value, or relationship, between multiple independent variables (factors), and a dependent variable. Our analyses used youth court expenditures as the dependent variable. Independent variables included factors that, according to juvenile delinquency studies, impact juvenile justice system needs and costs, such as types of juvenile offenses and poverty.

Data used as independent variables (factors that affect expenditures) was obtained from the following sources:

- ▶ Montana Board of Crime Control. Youth courts submit juvenile offense data to the Board of Crime Control within the Department of Justice.
- ▶ U.S. Census Bureau. We obtained juvenile population data from U.S. Census bureau records.
- ▶ Department of Corrections. We used JDIP expenditure data maintained by the department, as well as data used for allocating JDIP funds.

Historically, the panel used three variables representing general juvenile justice information: number of juvenile offenses, youth population, and poverty-related data. We included these variables in our regression analyses. We also used more specific data in our analyses, such as:

- ▶ Number of crimes against persons (e.g., assault).
- ▶ Number of property crimes (e.g., theft).
- ▶ Number of drug offenses.
- ▶ Number of status offenses.
- ▶ Number of alcohol offenses.
- ▶ Number of DUI offenses.
- ▶ Number of public order offenses.

Appendix A - Methodology

- ▶ Number of traffic offenses.
- ▶ Number of offenses classified as "other."
- ▶ Duplicated youth offender counts (youth counted for each separate referral).
- ▶ Unduplicated youth offender counts (youth counted once for all referrals).
- ▶ Number of youth committed to the Department of Corrections.
- ▶ Number of juvenile probation officers.

To reduce the potential for anomalous data to impact our analyses, we used the five-year average for offense and offender data between FY 2000 and FY 2004.

Department of Corrections Records

The department maintains a management information system for tracking youth court payments for placements and services, which also tracks information for each service or placement, such as youth identifier, period of service or placement, type of placement, and cost information. We analyzed FY 2003 and FY 2004 data by youth court.

Youth Court Case File Reviews and Interviews

To help ensure we obtained a statewide perspective of youth court activities, we judgmentally selected five youth courts from different areas of the state, including urban and rural areas. Youth courts we visited were:

- ▶ Judicial District 1 – Broadwater and Lewis and Clark counties.
- ▶ Judicial District 4 – Mineral and Missoula counties.
- ▶ Judicial District 9 – Glacier, Pondera, Teton, and Toole counties.
- ▶ Judicial District 13 – Yellowstone County.
- ▶ Judicial District 21 – Ravalli County.

We interviewed the chief juvenile probation officers from the five judicial districts and a youth court judge in two judicial districts to gain an understanding of youth court operations. Interviews focused on:

- ▶ Types of services, programs, and placements they use.

- Processes for determining youth needs for placements and services.
- Youth court strategies for reducing youth placements and juvenile delinquency.
- Program support from the Department of Corrections.

We reviewed a sample of youth court files from four youth courts to gain additional understanding of youth court decision-making activities. Examples of information documented included:

- Youth biographical information.
- Nature of referrals and offenses.
- Treatment and services provided to youth.
- Judicial decisions.
- Types of services and placements provided to youth.

Other States and Agencies

We reviewed reports from other states related to early intervention programs and juvenile justice systems. We also reviewed literature published by federal juvenile justice agencies related to early intervention and prevention efforts, as well as juvenile justice performance measures.

Agency Response

November 1, 2005

RE: Response to October 2005 Legislative Audit Recommendations

Dear Mr. Seacat:

Thank you for the opportunity to respond to the performance audit report of the Juvenile Delinquency Intervention Program. We have reviewed the recommendations and our responses to each recommendation follow:

RECOMMENDATION # 1:

WE RECOMMEND THE DEPARTMENT OF CORRECTIONS, IN CONSULTATION WITH THE COST CONTAINMENT REVIEW PANEL, MODIFY ADMINISTRATIVE RULES TO CLARIFY ALLOWABLE EXPENDITURES AND ESTABLISH PROGRAM STANDARDS IN ACCORDANCE WITH STATE LAW AND LEGISLATIVE INTENT.

Response: We concur with the point however it is not necessary. The third ARM revision is under way. A subcommittee composed of members designated by the cost containment review panel examined the rules and made recommendations to change the rules as indicated. The proposed rules have been formatted and are soon to be reviewed by legislative staff.

RECOMMENDATION # 2:

WE RECOMMEND THE DEPARTMENT OF CORRECTIONS IMPLEMENT PROCEDURES TO ENSURE CALCULATIONS FOR DISTRIBUTING JUVENILE DELINQUENCY INTERVENTION PROGRAM ANNUAL ALLOCATION FUNDS ARE MATHEMATICALLY CORRECT.

Response: We partially concur. A review of statute and administrative rules shows that the Cost Containment Review Panel determines the manner of calculating the formula. The calculations have been completed as the panel directed. In referring to recommendation # 3 and our response, we further would add that a method to determine 'need' must be clarified. It seems that there is an assumption that past expenditures represent need. The department of corrections does not agree with that. Consistency by each district with using assessments and collecting data on assessments and related services will help to clarify 'need'.

RECOMMENDATION # 3:

WE RECOMMEND THE COST CONTAINMENT REVIEW PANEL:

- A. SEEK TECHNICAL ASSISTANCE TO ANALYZE JUVENILE JUSTICE DATA TO IDENTIFY FACTORS THAT ARE BETTER PREDICTORS OF YOUTH COURT RESOURCE NEEDS, AND

- B. USE THE ANALYSIS TO DEVELOP AN ALLOCATION FORMULA TO DISTRIBUTE JUVENILE DELINQUENCY INTERVENTION PROGRAM FUNDS TO YOUTH COURTS BASED ON RESOURCE NEEDS.

Response: We partially concur. We add that 'resource needs' must be defined. District expenditures do not necessarily equate to needs. We sought assistance from the Department of Corrections' statistical data group. The Cost Containment Review Panel is now in the beginning stages of requesting assistance from OJJDP.

RECOMMENDATION # 4:

WE RECOMMEND THE DEPARTMENT OF CORRECTIONS, IN CONSULTATION WITH THE COST CONTAINMENT REVIEW PANEL:

- A. ESTABLISH AND IMPLEMENT PERFORMANCE MEASURES FOR YOUTH COURT PROGRAMS AND SERVICES FUNDED WITH JUVENILE DELINQUENCY INTERVENTION PROGRAM FUNDS.
- B. INITIATE COLLECTION OF BASELINE DATA FOR EFFECTIVE COMPARISON AND MONITORING OF ONGOING JUVENILE DELINQUENCY INTERVENTION PROGRAM ACTIVITIES.

Response: We partially concur. There have been basic performance measures based upon the data that we have been able to collect. We will work on a baseline and more sophisticated measures.

RECOMMENDATION # 5:

WE RECOMMEND THE COST CONTAINMENT REVIEW PANEL, IN CONSULTATION WITH THE DEPARTMENT OF CORRECTIONS, IMPLEMENT FORMAL DECISION-MAKING CRITERIA FOR EVALUATING AND APPROVING YOUTH COURT REQUESTS FOR CONTINGENCY FUND MONEY AND PROPOSALS FOR USING PREVENTION FUNDS.

Response: We concur with the recommendation however it is not necessary now. The decision-making criteria were outlined and sent to districts as recommendations in 2004. The criteria have been proposed for Administrative Rules.

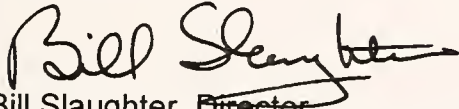
RECOMMENDATION # 6:

WE RECOMMEND THE DEPARTMENT OF CORRECTIONS AND THE SUPREME COURT COOPERATIVELY SEEK LEGISLATION TO UPDATE THE YOUTH COURT ACT AS OUTLINED IN THE REPORT, INCLUDING THE JUVENILE DELINQUENCY INTERVENTION PROGRAM, TO REFLECT THE CURRENT STRUCTURE OF AND FUNDING FOR MONTANA'S YOUTH COURTS.

Response: We concur. The Supreme Court and Department of Corrections agreed last year to work toward clarifying this legislation.

Thank you again for your time. JDIP is a complex act and it is relatively new. It has already accomplished the three purposes stated in page one of the introduction and background section of the audit report. Improvements will continue as the program evolves.

Sincerely,

A handwritten signature in black ink that reads "Bill Slaughter". The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

Bill Slaughter, Director
Montana Department of Corrections

THE SUPREME COURT OF MONTANA

KARLA M. GRAY
CHIEF JUSTICE

215 NORTH SANDERS
P.O. BOX 203001
HELENA, MONTANA 59620-3001



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November 8, 2005

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NOV 08 2005

LEGISLATIVE AUDIT DIV.

Scott A. Seacat, Legislative Auditor
Room 160, State Capitol
P.O. Box 201705
Helena, MT 59620-1705

Dear Mr. Seacat:

Thank you for the opportunity to comment on the October 2005 Performance Audit of the Juvenile Delinquency Intervention Program (JDIP) administered by the Department of Corrections.

Before I respond to the one recommendation in the Audit that specifically addresses the Supreme Court, I would like to make two general observations about the Audit and the JDIP itself.

First, I want to express our very sincere appreciation for the work of your Office and the thoughtful recommendations advanced about this program. JDIP is an enormously important program for Montana's at-risk youth. Without JDIP, Montana's Judicial Branch would be severely challenged to find positive alternatives for troubled youth outside the "deep end" of the more formal correctional system. The ability of Youth Courts to do out-of-home placements and to operate the prevention and intervention programs (even as limited as they are) with JDIP funds make an important difference to our communities, to public safety and to the future of these kids. Your recommendations to clarify and strengthen the Department of Correction's administration of this program will improve the ability of JDIP to target available resources based on need and best practices, and will ensure greater accountability of the funds.

Second, while Recommendation #4 is not specifically addressed to the Judicial Branch, I feel obligated to express my serious reservations about the implications of an executive branch agency--and its self-appointed advisory committee--"establishing and implementing performance measures for youth court programs..." operated within the Judicial Branch.

Most assuredly, performance measures are essential management tools for any activity. However, I believe very serious discussion is needed about the precise intent of this recommendation, the legal basis for an executive branch agency's actions in this area and

intended scope of any activity which might result from this recommendation. Again, performance standards are critical but, within our constitutional framework, the appropriate place to establish and implement performance measures for Youth Court programs is within the Judicial Branch itself.

This latter concern leads me directly to our response to Recommendation # 6:

Recommendation # 6

We recommend the Department of Corrections and the Supreme Court cooperatively seek legislation to update the Youth Court Act as outlined in this report, including the Juvenile Delinquency Intervention Program, to reflect the current structure of and funding for Montana's youth courts.

With respect to Recommendation #6, we concur.

The Supreme Court will support specific amendments to statutes relating to JDIP to align them with the district court assumption legislation enacted by the 57th Legislative Session in 2001.

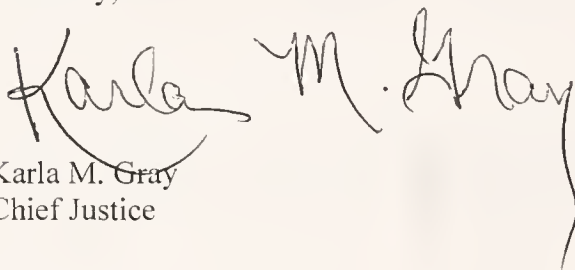
The Judicial Branch has drafted and shared with the Department of Corrections legislation that would implement Alternative #B found on page 50 of your October 2005 Performance Audit of the Juvenile Delinquency Intervention Program. (See attached proposed legislation)

The proposed legislation maintains the primary purposes and much of the structure of the current JDIP program. The overall purpose of transferring the JDIP program from the Department of Corrections to the Judicial Branch is to streamline the administration of the program, increase the direct management capability of the Branch for the JDIP program and to ensure more effective and efficient accountability of JDIP funds.

The Judicial Branch looks forward to working cooperatively with the Department of Corrections to introduce and support legislation in the 2007 Legislature to move the administration of the JDIP program into the Judicial Branch where all of the JDIP funds are currently expended.

Again, many thanks to you and your staff for a very positive and well-done audit.

Sincerely,

A handwritten signature in black ink, reading "Karla M. Gray". The signature is fluid and cursive, with the first name "Karla" being more prominent and the last name "Gray" following it. The signature is positioned above the printed name and title.

Karla M. Gray
Chief Justice

Cost Containment Review Panel

1539 11th Avenue, PO Box 201301
Helena, MT 59620-1301

*Honorable Joe L. Hegel, Co-Chairperson
Tom Pinsonneault
Bonnie Adee
Joy Mariska
Bill Nyby*

*Michael F. Otto, Co-Chairperson
John Clymer
Trish Stroman
Honorable Pedro R. Hernandez*

November 8, 2005

RE: Response to October 2005 Legislative Audit Recommendations

RECEIVED

NOV 09 2005

Dear Mr. Seacat:

LEGISLATIVE AUDIT DIV.

Thank you for the opportunity to respond to the performance audit report of the Juvenile Delinquency Intervention Program. We have reviewed the recommendations and our responses to each recommendation follow:

RECOMMENDATION # 1:

WE RECOMMEND THE DEPARTMENT OF CORRECTIONS, IN CONSULTATION WITH THE COST CONTAINMENT REVIEW PANEL, MODIFY ADMINISTRATIVE RULES TO CLARIFY ALLOWABLE EXPENDITURES AND ESTABLISH PROGRAM STANDARDS IN ACCORDANCE WITH STATE LAW AND LEGISLATIVE INTENT.

Response: Earlier this year, the Cost Containment Review Panel convened a subcommittee to examine the rules and have made recommendations to change the rules. The proposed rules have been formatted and are soon to be reviewed by legislative staff.

RECOMMENDATION # 2:

WE RECOMMEND THE DEPARTMENT OF CORRECTIONS IMPLEMENT PROCEDURES TO ENSURE CALCULATIONS FOR DISTRIBUTING JUVENILE DELINQUENCY INTERVENTION PROGRAM ANNUAL ALLOCATION FUNDS ARE MATHEMATICALLY CORRECT.

Response: A subcommittee of the Cost Containment Review Panel has been formed to consider revisions to the formula. After discussions with the legislative auditor, the Panel chose to continue using the formula as initially established for FY2005-2006. However, as the formula is revised for 2006-2007, it is the Panel's intent to use the methods of mathematical calculation as recommended by the legislative auditors.

RECOMMENDATION # 3:

WE RECOMMEND THE COST CONTAINMENT REVIEW PANEL:

- A. SEEK TECHNICAL ASSISTANCE TO ANALYZE JUVENILE JUSTICE DATA TO IDENTIFY FACTORS THAT ARE BETTER PREDICTORS OF YOUTH COURT RESOURCE NEEDS, AND
- B. USE THE ANALYSIS TO DEVELOP AN ALLOCATION FORMULA TO DISTRIBUTE JUVENILE DELINQUENCY INTERVENTION PROGRAM FUNDS TO YOUTH COURTS BASED ON RESOURCE NEEDS.

Response: Again, the Cost Containment Review Panel has formed a subcommittee to address these concerns.

The Panel is in the process of seeking technical assistance from OJJDP and other sources and will continue to do this on an ongoing basis. A database has been recently implemented through the Supreme Court Administrator's Office (Assessments.com) that will enable the Panel to extrapolate six-months of data to better identify the needs. It is anticipated to have the 2006-2007 formula in place by February or March 2006.

The Panel would like to note that in the audit it was assumed that actual expenditures reflected reasonably necessary expenses. The Panel is not of that same belief. This cannot be measured until performance measures are in place.

RECOMMENDATION # 4:

WE RECOMMEND THE DEPARTMENT OF CORRECTIONS, IN CONSULTATION WITH THE COST CONTAINMENT REVIEW PANEL:

- A. ESTABLISH AND IMPLEMENT PERFORMANCE MEASURES FOR YOUTH COURT PROGRAMS AND SERVICES FUNDED WITH JUVENILE DELINQUENCY INTERVENTION PROGRAM FUNDS.**
- B. INITIATE COLLECTION OF BASELINE DATA FOR EFFECTIVE COMPARISON AND MONITORING OF ONGOING JUVENILE DELINQUENCY INTERVENTION PROGRAM ACTIVITIES.**

Response: The Cost Containment Review Panel has established a subcommittee to better address this issue, and will offer to work with both the Department of Corrections and the Supreme Court to look at performance measures. Technical assistance in this area will be sought. The database established through the Supreme Court Administrator's office will provide baseline data and as that further develops, this will allow better monitoring of outcome measures. The Panel perceives this as a long-term project and will continue to strive to be accountable for these funds.

RECOMMENDATION # 5:

WE RECOMMEND THE COST CONTAINMENT REVIEW PANEL, IN CONSULTATION WITH THE DEPARTMENT OF CORRECTIONS, IMPLEMENT FORMAL DECISION-MAKING CRITERIA FOR EVALUATING AND APPROVING YOUTH COURT REQUESTS FOR CONTINGENCY FUND MONEY AND PROPOSALS FOR USING PREVENTION FUNDS.

Response: The Panel has implemented basic procedures for the use of these funds, but we agree a more formalized process needs to be established for both the original allocation and the use of prevention funds. There is an assessment tool agreed upon by the Supreme Court and the Department of Corrections and it is the Panel's intent to use information from that tool to help evaluate the validity of placements and/or expenditures. This in turn will be used when determining additional allocation from the Contingency Fund.

The Panel also plans to provide information on best practices for prevention funds. Reasonable outcome measures will be expected; however, the Panel will be mindful of the limitations that some districts will have with their own personnel resources.

RECOMMENDATION # 6:

WE RECOMMEND THE DEPARTMENT OF CORRECTIONS AND THE SUPREME COURT COOPERATIVELY SEEK LEGISLATION TO UPDATE THE YOUTH COURT ACT AS OUTLINED IN THE REPORT, INCLUDING THE JUVENILE DELINQUENCY INTERVENTION PROGRAM, TO REFLECT THE CURRENT STRUCTURE OF AND FUNDING FOR MONTANA'S YOUTH COURTS.

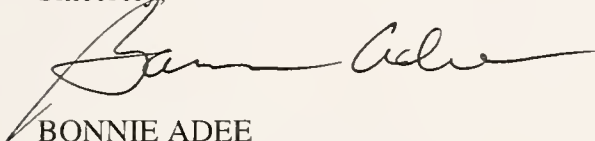
Response: We concur.

Recommendations from the various subcommittees of the Cost Containment Review Panel will be presented to the full Panel in January 2006.

The Cost Containment Review Panel thinks that the JDIP program is effective. In order to meet the individual needs of the various and diverse communities, it is important that the funds be largely controlled at the local level and not at the state level. The Panel agrees that uniformity and consistency are important and need to continue to be improved upon, while keeping in mind the resources and needs are different in each community. Part of the motivation of this program was to save money and improve programming in communities. It has saved the State money, provided an opportunity for local organizations to work together, allowed for true community based programs, and reduced out-of-home and out-of-state placements. The audit recommendations are good and the Panel knows these issues need to be addressed. The Panel is glad the auditor noted many of the same concerns the Panel is already addressing.

Thank you again for your time. JDIP is a complex act and it is relatively new. It has already accomplished the three purposes stated in page one of the introduction and background section of the audit report. Improvements will continue as the program evolves.

Sincerely,



BONNIE ADEE
Cost Containment Review Panel

JEB

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